Mr. WALSH of Massachusetts. We ought to draft some such amendment, because their claim is that they need these duties to meet the difference in the costs of labor. So we ought to put a proviso here that this 50 per cent protective duty shall be converted by the manufacturers into the wages of the employees. If that was done they would not ask for 50 per cent. They would not want their labor to get it. These protective duties have been used for the purpose of giving a mite to the working people and putting the rest in the pockets of the corporations.

Mr. SIMMONS. Along the same line on which he is speaking now, has the Senator had his experts make any calculations as to the entire wage costs in the woolen mills with reference to the cost of production?

Mr. WALSH of Massachusetts. I asked one of the experts to prepare for me the exact conversion cost on tops. The task is very difficult, very laborious. That was prepared, and I have put it in the RECORD to-day. It shows the difference in the cost of labor and the production cost between this country and abroad is very small.

Mr. SIMMONS. That is not the idea I had in mind. I think if the Senator would have his expert make a calculation he would find that the entire labor cost in the woolen mills is not much more than half the amount of the duty.

Mr. WALSH of Massachusetts. In the case of yarn the Tariff Commission said the conversion cost is 25 to 40 per cent. The Senator states that in the case of cloth, if we could get the figures, the estimate would be about 50 per cent.

Mr. SIMMONS. I think so. The Senator has given a very lucid and illuminating statement about the tendency of the textile industry toward monopolization, toward single control. I want to ask the Senator if he does not think that the high duties lend themselves to the encouragement of monopolization?

Mr. WALSH of Massachusetts. There is no doubt about it. The wise men in a tariff-protected industry know that monopolistic control of the domestic production makes the protection levied always operative. No trust takes in companies that are failures. The American Woolen Co. is not paying for any mills that are not profitable, but it is because they can see an opportunity for them to buy a mill at one price and increase its capitalization, end competition, and control prices, that makes them form monopolies. It is the incentive to enrich themselves, to get more profits, that has led, in my opinion, to the creation of many of the large organizations.

Mr. SIMMONS. When the industry is monopolized, largely because of these high and unnecessary duties, can not the manufacturer in that condition, whether there are any importations into the country or not, take in the increased price of his product the benefit of the full duty imposed?

Mr. WALSH of Massachusetts. There is no question about that.

Mr. SIMMONS. Then that is the vice and the danger of giving increases in duties upon a product where the present duty is practically prohibitory.

Mr. WALSH of Massachusetts. I agree with the Senator.

Mr. SIMMONS. It enables the monopoly, if there is one, to take advantage, in increases of its prices, of the full amount of the additional duty that may be imposed.

Mr. WALSH of Massachusetts. I want to stop directly, because I know the distinguished Senator from North Dakota desires to move a recess.

Mr. President, these duties promote greed, greed, greed! I would be the last man knowingly to deprive a manufacturer of an honest protective duty that would represent the honest difference in conversion costs. If anyone can show me an honest difference in conversion cost, I will go as far as anybody else to protect the domestic industry, because I do not purpose to stand in the way and see the American laboring man put at a disadvantage with the foreigner. But I will not support protective duties in order to enable producers to pay dividends upon watered stock. That is what this bill will do.

Mr. President, I do not wish to proceed further this evening. I shall conclude to-morrow.

Mr. McCUMBER. Mr. President, before moving to take a recess I desire to take a moment or two to answer the Senator from Minnesota [Mr. NELSON].

Yesterday, by a vote of more than two to one, the Senate of the United States declared it to be their purpose to give the growers of wool a protective duty of 33 cents per pound upon the scoured content. Now, if we give that protective duty of 33 cents per pound upon the scoured content of the wool we must necessarily give a compensatory duty. Even the Senator from Minnesota, I think, would recognize that principle.

The Senator from Wisconsin [Mr. LENROOT] thought that upon the coarser wools that was too high a duty, and he moved an amendment to provide that the duty should not exceed 60 per cent ad valorem upon those kinds of wool. But he left the higher kinds of wool untouched by his amendment. The Senator from Minnesota [Mr. NELSON] voted with him, but the amendment was voted down.

Thereupon the Senator from New York [Mr. WADSWORTH] moved to reduce the rate of 33 cents per pound to 28 cents per pound, a reduction of 5 cents a pound. The Senator from Minnesota [Mr. NELSON] voted against that amendment. Therefore, I assume that he is in favor of 33 cents per pound on the scoured content of the wool. Now, we have to carry that 33 cents per pound upon the scoured content into whatever is made out of it, and in the making of these cloths, considering first the waste in the yarn and second the waste in the manufacture of the cloth, with the experts at our side we arrived at the conclusion that there was a loss of about 7 cents a pound, which would have to be taken into consideration, and therefore we made the duty 40 cents a pound upon the product.

Now, being compelled to give 40 cents per pound upon the cloth from which the wool was made, the next question was, What, if any, duty shall we give as protection? The conclusion of the committee was that the cost of producing on the average, not upon the American value, not upon the retail price, not upon the wholesale price in the United States, but upon the manufacturers' price in a foreign country, required a 50 per cent ad valorem duty to equalize that cost with the cost of producing in the United States. Therefore we gave a rate of 50 per cent ad valorem. Now, if anyone can establish the fact to the satisfaction of either the committee or the Senate that 50 per cent ad valorem is too high, I think we can get a reconsideration and vote for what we may consider necessary for the protection part.

If we put our compensatory duty too low, lower than that which measures the 33 cents a pound upon the scoured content and the waste in making that first into yarn and then into cloth, the cloth and the yarn will come in and the farmer is not getting his protection because the price must necessarily come down. So also if we fail to give a protective duty that will equal the difference in the cost of producing these fine grades of cloth in the foreign country and in this country, then the cloth will come in and the American manufacturer must reduce the price that he pays to the farmer and the farmer will not get his protection.

It seems to me that the position of the Senator from Minnesota is something like that of a man who orders pie from a bill of fare and then does not want to pay for it. If we eat our pie, we have to pay for it. If we give 33 cents a pound upon the scoured content of the wool, of course we have to pay for it. If it should happen upon some class of goods to be 100 per cent, based upon the foreign valuation, if that does measure the difference, then we ought not to complain because we pay that duty. If the Senator from Minnesota is not satisfied, then he should move to reduce the protection which is given to the American producer. If he is not willing to have that reduction, he is compelled by every principle of mathematics to make this allowance and carry it into the finished product.

Now, Mr. President, I move that the Senate take a recess until to-morrow at 11 o'clock a. m.

The motion was agreed to; and (at 6 o'clock and 15 minutes p. m.) the Senate took a recess until to-morrow, Friday, July 28, 1922, at 11 o'clock a. m.

SENATE.

FRIDAY, *July 28, 1922.*

(Legislative day of Thursday, April 20, 1922.)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Borah	Ernst	Lenroot	Nicholson
Broussard	Gooding	Lodge	Norbeck
Bursum	Hale	McCormick	Oddie
Cameron	Harreld	McCumber	Overman
Capper	Harris	McKinley	Pepper
Caraway	Heflin	McLean	Phipps
Colt	Jones, Wash.	McNary	Pomerene
Culberson	Kellogg	Moses	Ransdell
Cummins	Kendrick	Nelson	Robinson
Curtis	Keyes	New	Sheppard
Dial	Ladd	Newberry	Shortridge

Simmons	Stanley	Walsh, Mass.	Willis
Smith	Sterling	Walsh, Mont.	
Smoot	Trammell	Warren	
Spencer	Underwood	Watson, Ind.	

Mr. UNDERWOOD. I wish to announce that the senior Senator from Nevada [Mr. PITTMAN] is absent on account of illness in his family. I ask that this announcement may stand for the day.

Mr. TRAMMELL. I wish to announce that my colleague [Mr. FLETCHER] is necessarily absent. I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Fifty-seven Senators having answered to their names, a quorum is present.

MISSISSIPPI RIVER FLOOD CONTROL.

Mr. RANSDELL. Mr. President, I ask unanimous consent to have printed in the RECORD in 8-point type three very valuable and instructive articles relating to floods in the Mississippi River. One is entitled "The water fighters," from the pen of the well-known author, Harris Dickson, which appeared in the Saturday Evening Post of the 15th instant. Another is by J. Bernard Walker, editor of the Scientific American, and appears in that journal for August under the caption "Curbing the Mississippi," and the third is an interview with myself prepared by Henry L. Sweinhart and produced in the Outlook on the 26th of this month, entitled "Mastering the Mississippi." The three articles would give a great deal of very important information to the country on the subject. Therefore I ask that they be inserted in the RECORD.

The PRESIDENT pro tempore. Without objection, the order will be made as requested.

The articles referred to are as follows:

[From the Saturday Evening Post of July 15, 1922.]

THE WATER FIGHTERS.

(By Harris Dickson.)

In these postwar days of floundering and inefficiency, of clock watchers and grumblers and grafters, it makes the heart beat faster to see a man-sized job bravely tackled and honestly well done. During our high-water fight along the Mississippi River we saw an exhibition of human courage and tenacity that gave a sparkle to the eyes of men. Ten years ago I wrote for the Saturday Evening Post a story of failure, of broken levees, and disaster. Now I joyfully record a success. The world is not lost while men can yet stand resolute. Confronting their ancient enemy, our valley dwellers assembled with such an organization and sturdy work that old Jonah Q. Grouch himself now admits a possibility of hope for the Republic.

The average river dweller is an incurable optimist, undismayed as the peasant who rebuilds his home upon the volcanic slopes of Vesuvius. Like his pioneer father before him, Col. Damascus Swampwood swats mosquitoes, borrows money to ration free negroes, puts all his credit into growing cotton, and starts over again when the Mississippi runs amuck and washes away everything except his mortgage. Being a dead-game sport, the colonel never whines over spilt milk, but plasters his property with a second mortgage to some innocent financier, patches up his levee, corrals more negroes, and plants more cotton, all in the sublime assurance that one good crop will land him on Easy Street. Two bumper crops in succession would make the colonel disgustingly rich, which he doesn't crave. All he wants is plenty for himself and his friends.

Overflows and hope deferred have taught Colonel Swampwood to be a long-shanked wader and a cheerful loser. In lean years he eats corn bread with the same grace that next season he smashes European speed laws. He believes in the valley, and sticks to it. "Consider the postage stamp, my son; its virtue consists in sticking to one thing until it gets there." His country has a glorious future, 40 feet deep in fertility from the erosions of a continent. When the river has become a servant instead of a master, and drainage an established fact, then the two-legged world must wear his cotton breeches and pay tribute to the colonel. Until that sure millennium arrives he swears by his country, and swears at it. In drought years he cusses high whisky, and in wet years he cusses high water.

This has been a wet year. The colonel has cussed and fought, and beat the Mississippi to a fare-you-well. To-day, May 24, the whipped river is running away, and folks who perch upon the mountain tops must pardon us if we strut a bit, and flirt our tail feathers free from mud. I say "we," because everybody did it. We forced our levees to serve our turn long after they were gone; when water towered 2 feet over their tops we halted it, and held a fighting line four times longer than the battle front in France.

For the past five years old Father Mississippi has behaved himself pretty decently, with only local outbreaks. Waterspouts in Wyoming, torrents in the Yellowstone, and chunk floaters in western Pennsylvania all subsided like a village hell-raiser in New York City when they got lost in a vaster channel. Little streams cut up mightily at home, but died before they reached first base. One at a time they have no more effect upon the lower Mississippi than squirting a garden hose into the Atlantic.

This year, however, they all seemed to synchronize their watches and agree upon a zero hour. The Monongahela and the Platte, the Cumberland, Arkansas, Missouri, Ohio, and Tennessee—all went over the top together. Deluges from Denver, Buffalo, and Winnipeg, wave upon wave, crest upon crest, came raging down the valley.

"Told ye so! Told ye so!" Old croakers gleefully shook their heads and based predictions of calamity upon their observation of crawfish prophets.

Colonel Swampwood tightened his belt and realized what a general overflow would mean. Under present business conditions the best he can do is to hang on by his eyelashes, stave off taxes, extend his notes, and draw three cards. With 10 feet of water blanketing his plantations the tenants must swim out and keep swimming, for unless they make a crop this year none of these negroes can get a dollar until Santa Claus comes down his chimney in 1923. If the levee broke, it would depopulate the country. The levees must be held.

A delusion exists in certain unfortunate cities which are so far distant from Vicksburg that they can not be expected to know much—a delusion that our levees are huge dams of stone or concrete, reinforced, buttressed, and impregnable. When Colonel Swampwood takes his rightful seat in heaven he'll plunk his harp in peace behind a levee like that; but in this vale of tears and swears he fights to hold a ridge of dirt so very soft that it melts in his mouth. And his mouth gets hot enough to melt anything.

Our valley is built up of material brought down and deposited by the river, and Father Mississippi had more gumption than to fetch stone or concrete that could be used to bar him from his happy playground. He brought only the mushiest kind of stuff that levees are made of.

Near 2,000 miles of these ridges barricade the river on either bank, and every inch is a danger point; when floods stand for weeks against it not even the strongest levee can be left unguarded.

Our present trouble lies in a lack of uniformity in height and strength, because the system itself is an evolution.

Originally the colonial planter threw up his private embankment to protect his own tater patch; a neighbor joined him, and another, the community, the county, the State—and a system developed. Independent levee boards cherished different ideas as to dimensions or piled up dirt as far as their dough permitted—until the Federal Government became a partner, and the Mississippi River Commission established its standard, designed to keep off any water. Learning the lessons of failures and success, one fact stands forth: A levee constructed according to specifications of the river commission will hold off the highest known water, and everybody is now struggling toward bringing our dikes up to "commission grade and section"—a standard phrase for a standard levee.

This can not be accomplished in a day. The work itself can be pushed only during fair weather and as far as the money will stretch. Frequently we see a huge levee machine standing idle because of rains or failure of appropriations, an abandoned and futile thing gazing upon the tragedy of its unfinished task.

Up to the point where it stopped we walk along a stalwart dike, proof against any flood, and beyond it tremble at the weakness of a temporary sacking. The thick dike gives no anxiety, but thousands must labor upon the thin one.

During overflow after overflow we suffer through this agony, when Federal appropriations are not sufficient and the larger funds raised by local taxation have become exhausted. Much of this money is expended in emergency work, the cost of which sometimes runs as high as $10,000 a mile; all wasted, for it must be torn away when standard levees take its place. The pity of it is that losses from a single crevasse would probably pay for completion of a system that insures immunity, confidence, and increased production.

However devoutly we might wish it otherwise, lower and weaker levees do join the standard levees and are first threatened by the floods.

When the waters rose this year they found a small and experienced force already at the front, and as weak points developed the cry for help went out. With the Anglo-Saxon genius for organization this help assumed the form of a feudal military system. In brave days of old the barons, earls, and dukes marched to war with their king, followed by retainers in

proportion to the lands they held. So did plantations and towns now furnish labor. If a planter objected to diverting labor from his crops he was bluntly reminded that unless the levees were held he'd get 20 feet of water. So the labor came.

An enormous trough, brimful of water, ran down the middle of this continent. On either side lay farms and towns and homes, 10 to 30 feet lower than the rim of the trough. The rim is not made of steel or wood, but of mellow dirt that dissolves like sugar. And if that rim should break more water will pour out than Niagara ever dreamed of.

Such was the menace at Arkansas City. In May the water in front of the town stood 2 feet higher than the crest of their levee, being kept out only by a topping of dirt-filled sacks. The rains fell and the storms raged and the waves dashed against it. It seemed that puny man could never hold the line in defiance of a maddened river. Perhaps not, but they would try. First they towed some heavy barges loaded with logs and moored them alongshore to break the wave wash, while volunteers waded in the river itself, nailing together a plank revetment outside the levee.

Inch by inch, as the bubbling waters climbed, the people stacked up sacks and more sacks, fighting like rats to keep from drowning. But they were loading too much weight on their levee, already weakened by its soaking, with water creeping through every pore and converting it into slush. Engineers realized this, levee officials knew it, and looked for their superstructure to tumble down like a house of cards. It did, or tried to.

On the night of the crisis—such calamities always occur about 2 o'clock a. m.—the levee began to slough—pronounced "sluff." This means that their ridge began to cave on the land side, to slide like mush, and sink. Should that embankment collapse by to-morrow morning there might be a lake 50 feet deep where Arkansas City once stood and no vestige of a town. Scared? Of course they were scared, with a terror that makes men clinch their jaws and die hard.

Yet the girl in the drug store, 30 feet below, never batted an eye as she inquired, "Sassapriller? Choc'late? Strawberry?" The hotel business kept going as usual; most of it was going, for skittish traveling men declined to occupy rooms on the ground floor and departed. Townsfolk set up scaffolding in their homes, hoisted babies to the second story, and wired Little Rock for more convicts. Nobody slept. Folks didn't seem to be tired. Convicts and college professors, lawyers and laborers and ladies—everybody—worked knee deep in mud on the levees.

A sloughing levee is the delirium tremens of the water fighter. While the banquette stands firm as a rock, he can pile sacks on top and keep three seconds ahead of strangulation. But when the water-sogged embankment wabbles like a bowl of gelatin and begins to spread at the base he gets squeamish in the pit of his stomach, for the top is fixing to crumble, and a torrent come rushing through.

THE HERO OF ISSAQUENA.

With a terrific pressure of water against it their slushy levee kept sliding and must be stopped—stopped right now. A water fighter never pesters his head about red tape; he uses the first thing that comes handy, no matter who may own it or who protests. In this case of emergency they grabbed a railroad track which ran along the banquette, just inside the levee and some 20 feet below its top. Somebody had several carloads of coal standing on this track. Long beams of wood were braced against them, and the tottering top of the levee held in place. This makeshift would serve for a while, but might give way at any moment; the entire structure must be made more substantial. A sand-and-gravel company had been dredging up sand from a bar in front of town. There stood the idle dredge and here were empty barges. Tugboats got busy, the dredge began to work, pumping material into the barges—90 per cent solid matter, the water being allowed to run off. At the danger point a force of convicts and citizens filled their sacks with sand, hundreds of thousands of sacks, and piled them at the base of the embankment. This adds weight and steadies the wavering mass.

During that crucial night 1,100 tons of material were sacked by hand and piled in the slush to make it firm. And the levee held. By all fair rules of courtesy it should have held, as a testimonial to the grit and tenacity of those indomitable people. After this flood goes down nobody can look at that rickety ridge without taking off his hat to the men who defended it against every power of the river. At this point the waters rose some 65 feet above their lowest level.

Crevasses, however, are not always caused by water pouring over the levee's top. Their crests can generally be kept above the flood by a topping of sacks; loose earth does no good, but the covering of cloth prevents it from dissolving and washing. These sacks are so carefully laid and trampled down that surprisingly little seepage water comes through. Seepage is always a problem and often a peril. Every schoolboy thrills at the Little Hero of Haarlem who stopped a leaky dike with his finger and got himself immortalized in a poem, but poets are unfair, and fail to record every deed of valor. On our Issaquena Levee a far more gallant exploit has gone unsung for lack of a local poet. It was an anonymous hero who discovered not a trickling leak but a miniature crevasse, 2 feet wide and 3 feet deep, far too big for anybody's finger. The hero of Issaquena had no coal cars, no sacks, no sand-and-gravel company. He had only himself, and used his material by squeezing into the crevasse. He saved his country, yet no songster has garlanded his feat in poesy—which might be difficult. "Hero's finger" rhymes with "lovers linger" and "spring's harbinger"; but the broad hero of Issaquena didn't stop that crevasse with his finger; he sat down in it.

THE CURE FOR SAND BOILS.

If Issaquena's hero hadn't sat down on the psychological spot, in 10 minutes this overtop station would have passed beyond control. Which sometimes happens, but more frequently the pressure of water searches out a stratum of sand far below the levee or a pocket of decayed vegetable matter. The levee itself may have been constructed across the bed of a lake, one of those cast-off coils that was anciently a channel for the capriciously changing river. Through crevices or crawfish holes the water is forced beneath a levee that seems more solid than the Republican majority in Vermont, until it bursts up like a fountain in the rear. This warns the engineer of an underground stream, and he immediately diagnoses a sand boil. A boil hurts, but there's no sense in damming it, although hot-tempered engineers use this treatment while they apply other remedies. Dams only irritate a sand boil, and make it break out somewhere else.

An undiluted gunny sack is to a levee doctor what calomel and quinine are to the country practitioner—first aid in every case. His prescription to cure a sand boil calls for thousands of sacks full of dirt copiously applied in a ring around the boil—like a corn plaster, leaving the center open. The doctor applies these sacks in a circle, erecting a hollow leak-proof tower, and lets the water rise within. This creates a column of water inside the levee to counterbalance the column outside. Theoretically the inside column should rise to a level with the river. But it doesn't. Yet it checks the underground current and minimizes friction until the boil ceases to bring up mud. Then the doctor knows that interior caving has stopped.

Such a sand boil, violent and terrifying, broke loose behind the Vaucleuse Levee at 2 a. m. This boil spouted like a geyser 3 feet across, and tossed a cypress stump 4 feet into the air, just to show how strong it was.

The night patrol instantly detected it, and summoned the fighters with a barge of sacks. It seems queer to meet again upon an Arkansas levee the same little trench sacks that protected our lads in France. Soldiers and water fighters get mighty chummy with their efficient friend who stops a bullet or an overflow.

The malignant boil at Vaucleuse was ripping the very bowels out of their levee. Round and round its festering head the experts placed their sacks, accurately as a skilled mason lays his bricks. But the marsh behind it threatened other boils or an even more disastrous slide. So two small sublevees were hurriedly built, inclosing the entire area. In this precarious situation a levee needs weight, quick weight, substantial weight behind it. The most available commodity is water, siphoned over the main levee from the river and filling the sublevee. Tons upon tons of water were pumped across to offset the pressure outside. Human intelligence and courage had saved the levee at Vaucleuse.

Perhaps our most ticklish fright came at Fulton Lake. Here the levee crosses low ground, an extraordinarily high embankment that lays an enormous load upon its soft foundations. The flood had been standing against it for weeks, and the water-soaked ridge began to slide. An avalanche slipped off from the inside, leaving only a thin barrier of dirt 14 inches thick at the top. A one-legged grasshopper might have kicked this over; yet that flimsy wall alone stood between the country and destruction. Another hour, another minute, top, base, and sides might be washed away together, overflowing 7,000 square miles of cotton and sugar lands—about the area of Connecticut added to Delaware.

But the line did not break, for determined men were guarding it. The top must be held, the base, the sides—everything done

at once—for the entire levee seemed rotten to its core. As a good general holds ready his reserve, an ample force, principally convicts, rushed forward and built a double bulkhead of timbers across the weakest point. This had to be set in the river itself, for the levee's top was practically gone. Between bulkheads they filled in sand from the barges, while other men swarmed like ants below to strengthen the foundation. Sacks, sacks, sacks; more sacks, additional sacks, tier upon tier of sacks were stuffed with sand by the convicts, sent whizzing down the chutes, and laid along the base of the threatened levee. Again the levee held; again the river was beaten.

During a water fight the United States assistant engineer is busier than a one-armed man with the itch that continually breaks out in a new place. His telephone tingles. Another sand boil? The spur at Ashbrook? A hurry call for sacks? No. The sheriff.

"Hello! Hello! Say, I've got to do something about your fellow in jail."

"What fellow?" The engineer had forgot.

"The man you grabbed for pasturing hogs on your levee."

"Oh, that fellow?"

"Sure," the sheriff explained. "I've held him for two weeks without a warrant. He's getting peevish. Send up your witnesses and have a trial."

"Can't spare a man. Hold him. Good-by."

Constitutional rights are apt to get sidetracked when folks are wrestling with an overflow. This backwoodsman had waded out of the swamp with his drove of hogs—an Arkansas razorback being more sacred than cats in Egypt. With his hogs he fetched a steel-blue eye and a wicked-looking rifle. Levees are also sacred. Hogs root them up and cause crevasses. But this drove did not make a crevasse; they made pork chops.

SHIFTING WATERS.

During a previous low water the official inspection steamer had gone chugging up White River, raising waves that jostled the shanty boats. A fisherman's boat is his castle; the rains may beat upon it and the winds may whistle through it, but no stiff-necked brass-buttoned fellow is allowed to jostle it. Fishermen opened fire on the pilot, and the official steamer slowed down.

Which is only their simple-hearted method of asserting a fisherman's low-water rights. High-water rights, however, must be construed more strictly. At the very crest of this flood a bank began caving on the Mississippi side. Men and material hurried there in a barge to find that a shanty-boat man had already preempted the locality. A long-bearded river rat shooed them off with his rifle—for 10 minutes. He is now a jail rat, while the caving bank has been revetted.

This cannibal propensity to eat his own banks is what makes the maintenance of levees a never-ending job. If old Father Mississippi would settle once for all just where he wants to run, and stay there, we could possibly complete our levee system and be done with it. But the river is a restless person, who always craves to ramble somewhere else. This year he meanders along the Mississippi shore, throwing up a big sand bar and letting willows grow on the western side, as if he had no intention of ever consorting again with Louisiana. Next year he takes a notion to hug Louisiana some more, picks up the sand bar and deposits it next to Mississippi a few miles downstream. The willows he uproots and totes away for souvenirs. He swings round in a long bend and hurls his power against Louisiana as if to wipe that State off the map. By constant gnawing he reaches the levee and eats it up, unless the engineers stop him by sinking a mattress or revetting the banks with rocks. Usually these methods will save a levee, but sometimes it must be abandoned for a new line a thousand yards to the rear. This character of repair work will probably continue indefinitely, or until the river gets old enough to lose its pep.

Caving banks frequently cause what is called a cut-off, where the tortuous river carves a brand-new channel for itself through some narrow neck of land and lops off a portion of its own length.

For ages this process has been going on, and many detached fragments of Louisiana now lie east of the river, while sections of Mississippi find themselves divorced on the west.

In 1863, for instance, the Mississippi River at Vicksburg twisted itself into a bend 9 miles long. The Confederates held fortified positions above and below the city, which General Grant found it costly if not impossible to pass with his gunboats. So Grant attempted to dig a canal and make an artificial cut-off. But the Mississippi River, for malicious motives of its own, declined to patronize Grant's canal, and the project failed. Thirteen years later, in 1876, after consulting with nobody, Father Mississippi chose a route that pleased him and made a cut-off to suit himself, which now became his main line of march. This left the horseshoe Lake Centennial of stagnant water, and demoted Vicksburg to the rank of an inland town, for the ends of Lake Centennial filled up.

THE FIGHT FOR ASHBROOK SPUR.

The Yazoo River at that time emptied into the Mississippi, 20 miles above. To provide a water front for Vicksburg, and improve navigation, the Government constructed a canal, built dams, and dredged the channel. This forced Yazoo water down what was formerly the Mississippi and gave Vicksburg the added distinction of being the only great city on earth that has moved from one river to another without budging a foot.

Father Mississippi is now trying his same old tricks of cut-up and cut-off just above Greenville, Miss., which would erase Greenville from the list of water towns and necessitate a rearrangement of levee lines on both sides of the river. To prevent such a cut-off a spur had been constructed at Ashbrook neck, hoping to deflect the current. But when Father goes on a rampage it takes a lot to divert him. He rose in his wrath and attacked the spur, not only by tearing at its end but by a sloughing in its middle. The end crumbled, the center caved, and tidings of disaster went over the land that "Ashbrook is caving! Ashbrook is lost!" For weeks the fight to save Ashbrook spur was one of the dramatic spectacles of our flood. Thousands of sacks filled with gravel were sewed together on wire cables, the cables being securely moored before the sacks were sunk. Engineers dropped line after line of gravel sacks into the torrent, causing the waters to hesitate and become irresolute, which gave them time to protect its end. Ashbrook spur is saved, and the sacks are now held in position by cables as taut as those that support the Brooklyn Bridge.

Every foot of levee is being watched every minute. Keen-eyed men patrol its crest and its banquette and its base. By night hundreds of lanterns swing low against the ground like ignes fatui that hover about the swamps. The slightest weakness is marked, and the inspector sees little stakes flying a white flag; not the flag of surrender but the flag of fight. He examines each tiny rivulet of seepage or soggy spot or depression.

For every trickle there's a man with a spade, testing it out, seeing where it comes from, and leading it away by a trench. Clear leaks do no harm; but when they bring mud, showing an interior erosion, the defenders mobilize.

It is deplorably true that a levee did break on the Louisiana side nearly opposite to Natchez, Miss., and another crevasse occurred below New Orleans, at Poydras. There were also two other breaks on the Atchafalaya. It is true that 5,000 square miles in southeastern Louisiana and western Mississippi are now under water, that enormous property damage has been done, with loss of life, and that 40,000 people are refugees. Yet these distressing facts only emphasize another fact—the levees that gave way were not up to "commission grade and section." Engineers did not expect them to afford protection against such unprecedented water. And they did not. On the contrary, no standard levee has broken, shown weakness, or given serious trouble. Behind those standard levees the plowman now works unafraid. His live stock has not been drowned, his property has not been swept away; no child is homeless and fed by charity. Thousands of square miles are being successfully cultivated that would otherwise be under water, a protection that experienced men insist can be extended to our entire valley.

The partial overflow in the State of Mississippi is not due to levees breaking. Our inundated section lies at the junction of the Yazoo and Mississippi Rivers, at the southernmost angle of our delta. The Yazoo River is not leveed, and backwater stands upon its unprotected lands. No trouble whatever came from the Mississippi River front, where all embankments were held intact.

The Yazoo & Mississippi Valley Railroad traverses this country, where backwater invades its coaches, and the pilots' union kicks like a mule because locomotive engineers are permitted to navigate tributaries of the Mississippi River without a pilot's license.

An adventurous traveler observed a section foreman climb into the train and hitch his skiff behind. The traveler got into the skiff alone and enjoyed the novelty of being towed by a northbound express until they reached a higher stretch of track and his skiff went bumping over crossties.

Throughout this fight our railroads have rendered notable service. For example, the Government had 4,000,000 sacks stored in a warehouse at Schenectady, N. Y., doing nobody a particle of good. So a trainload was shot along its route to Greenville, Miss., 1,450 miles away. Limited specials sulked on the siding, and millionaires waited while the humble sacks

went by, the shipment reaching our levees in 89 hours—a world's record for the movement of freight. Hard-headed jurors who used to soak the soulless corporations are now holding love feasts and passing flowery resolutions, while cynics wonder if their Damon and Pythias performance will last until the next term of court.

In this sweet and gentle springtime old folks discuss the levees and a young man's fancy lightly turns to thoughts of river control. Behind receding waters the usual crop of cross-roads theorists is sure to germinate. Each one presents a sizzling panacea and writes a piece to the editor, writes to every editor. They orate at public meetings, get red in the face, and sweat like a negro under oath seeking to convince a bunch of stupid professionals who persist in doing the wrong thing. These reformers are even more earnest than some of our junior civilian officers during the late war, who invented brand-new plans for revolutionizing strategy, unaware that their patents had been plagiarized and discarded by Alexander the Great. We hear a lot about spillways and the resuscitated error that levees make the bottom of our river fill up. The wiseacre on Pikes Peak is positive. But the trained engineer who has chosen the Mississippi as his life's work, who takes accurate soundings year by year and compares records—this engineer reports that the channel shows no tendency to fill; on the contrary, it is scouring deeper. Innocent bystanders can also remember when boats used to tie up at Natchez in low water because they could go no higher; and pilots were always wondering whether they could cross a certain bar. Boats now proceed to St. Louis, for navigation is far better than it was 50 years ago.

After all, the outstanding feature of this flood is how an undaunted people rallied to the fight. In leisure hours they may squabble, but, like good Romans, they get together when the barbarians hammer their gates. Hillmen helped the valley men; the planter left his plow in the fields; the merchant closed his shop and went to the levee. Everybody worked and everybody won. Now we turn to the future with more than hope that we shall have a standard levee system to the Gulf, strong as that which conducted without a break from St. Louis to Natchez the highest flood in recorded history.

[From the Scientific American of August, 1922.]

CURBING THE MISSISSIPPI—LEVEE CONSTRUCTION THE ONLY PRACTICABLE METHOD FOR RESTRAINING THE FLOODED RIVER.

(By J. Bernard Walker.)

The Mississippi Valley, from Cairo to the Gulf, has recently passed through the most trying and dangerous experience in the history of its long struggle with the flood waters of the great Mississippi River. The distance by the tortuous river is about 1,000 miles, and for long stretches of this distance the inhabitants on either bank have been threatened in the spring of every year with heavy inundation, accompanied with the loss of life, the sweeping away of homes and farm buildings, and of crops and live stock.

It was inevitable that the early settlers in the Mississippi bottom lands would make some effort to protect themselves against this ever recurring peril; but it will be news to many of the readers of the Scientific American to learn that as far back as the year 1717 the early colonists were attempting to control the floods by building levees, or artificial embankments, outside the river banks. Within the next hundred years or so the work was carried on so far as the means of the country permitted, and by 1828 the levees had been extended up the left bank of the river to Baton Rouge, and along the right bank as far as the mouth of the Red River.

Finally the Federal Government came to the assistance of the local communities in this unequal combat with the mighty forces of the river, and in 1850 all the unsold swamp and overflowed lands below the Ohio were granted to the several States along the Mississippi, the object being to raise a fund for reclaiming the lands that were subject to inundation. Under this stimulus the construction of levees was carried forward more rapidly; and by the year 1860 all the basins of the great delta were provided with stretches of levee covering the most exposed positions, and, therefore, possessed a certain degree of flood protection. This levee work, it should be understood, was not comparable to that which exists to-day, the average height being only about 4 feet as compared with the present average height of 18 feet.

However, under the stimulus of the sale of swamp and overflowed lands, the work was carried on with more or less continuity until the year 1879, when the Federal Government, realizing that this big problem could be solved only after a thorough study of the problem by competent engineers and by cooperation with the several States affected, created the Mississippi River Commission. This commission was instructed to make surveys and draw up and put into execution plans for the improvement of the river; they were to "correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River, improve and give safety and ease to the navigation thereof, prevent destructive floods, promote and facilitate commerce, trade, and the Postal Service."

Before passing on to consider the work which has been done and which now is being carried on by the Mississippi River Commission, it would be well to consider the vast extent of the United States that is included within the drainage basin of the Mississippi, which has a total area of 1,240,050 square miles. The eastern boundary line reaches into western New York, south of Buffalo; the extreme western boundary is found in Montana, west of Butte; the northern boundary reaches 70 miles to the north of the boundary line between Canada and the United States, and the southern boundary is formed by the shores of the Gulf of Mexico. The drainage, or run-off, of 30 out of 48 States empties into the Mississippi. The basin measures 1,822 miles east and west, and 1,449 miles north and south. That the Mississippi below Cairo has a tremendous task to perform in conveying the spring freshets to the sea will be understood when we state that over this great area of nearly one and a quarter million square miles the average annual rainfall is about 30 inches. As a matter of fact, when the river has risen to the top of its banks it can carry only about one-half of the maximum flood discharge, which at the upper end of the delta is about 2,000,000 second-feet. The volume of water can be visualized, also, when it is stated that the extreme rise of water, from low to high, reaches 60 feet at Vicksburg and Arkansas City.

Now, when the Federal Government took hold of the problem through the Mississippi River Commission there was a large amount of dissatisfaction with the levee system as such. The local authorities were naturally disheartened by the many and continuous ruptures of the levees, followed by disastrous loss of life and property. During the years 1881, 1882, and 1883, in which there were heavy floods, the levees were broken in no less than 712 places. The opponents of the levee system claimed that as the levees were carried up the deposits of silt caused the bed of the river to rise also. The fallacy of this was proved by extended investigation, which showed that there had been no such progressive elevation of the bed of the river. Indeed, the latest data proves that where the river is reinforced by levees of adequate height there is a tendency for the river to enlarge its cross section and lower its original bed. It should be mentioned here that before any attempt was made to control the Mississippi its floods extended for a width of 60 miles, and the annual floods as they overflowed the river channel deposited most of their silt near the river banks, with the result that there developed a slope of the land away from the river of from 3 to 15 feet per mile. Consequently the drainage would be from the river toward the bordering higher land, where it flowed into various streams which emptied the overflow into the Mississippi when they joined the main river.

From the time when the commission was formed down to the present day there has been a steady rapid fire of criticism directed against levee construction as such. This criticism was most vigorous after the floods of 1881 to 1883, and was due, as we have said, to the large number of breaks which had occurred in that period. On the other hand, all competent engineers have realized that levee failures have been due to the fact that the early structures were more or less of a makeshift character and were not based upon that exhaustive study of the problem which must ever underlie successful engineering works. The engineers of the commission—that is, the Engineer Corps of the United States Army—indorse the levee as being the only practicable solution of Mississippi flood control; but they are careful to point out that levees can be completely successful only when they are of sufficient height to overtop everywhere the maximum flood stage, and only when they are built to a predetermined width and slope and are protected on their river side with some form of antiscour protection.

Several alternative schemes for river control have been suggested. There is the plan for by-passing the flood waters through artificial canals paralleling the river; a scheme which might relieve the stretch of land through which it was cut, but would do so by producing more troublesome floods below the point at which the canal reentered the river.

Then there has been a great deal of unconsidered speech and writing in advocacy of the construction of reservoirs in the upper approaches of the river in which to impound the floods and release them gradually without damage to the country below. Now, in the first place, there are no natural basins, with narrow outlets suitable for dam construction, to be found

in the upper reaches of the Mississippi Basin, and in the lower reaches of the river and its tributaries the construction of such reservoirs would not only be prohibitive but, indirectly, they would flood some fully settled communities and involve the blotting out of large sections of valuable farm land. As a matter of fact, it would be a physical impossibility, and certainly an economic impossibility, to hold back these flood waters by any system of reservoirs. At the Natural Drainage Congress, held in St. Louis in 1913, Col. C. McD. Townsend, United States Army, then president of the Mississippi River Commission, presented a graphic statement showing how the floods on the lower Ohio and Mississippi Rivers are due to rainfall upon their lower tributaries rather than upon the distant headwaters in the mountains, where the advocates of reservoir control proposed to store the water.

He showed that in the great Ohio River flood of 1913 the city of Cairo, at the junction of the Ohio and Mississippi, was so threatened that women and children were sent away and the city was more than half depopulated. The crest of this flood reached a greater height at Cairo than any before recorded. Suppose there had been a huge storage reservoir available, not merely on the headwaters of the Allegheny and Monongahela but at the city of Pittsburgh itself. Suppose there had been another such huge reservoir at St. Paul, Minn., capable of taking all the flow of the upper Mississippi. Suppose another had existed at St. Joseph, Mo., sufficient for the whole flow of the Missouri.

The length of time required for a flood wave to pass downstream from these several points to Cairo is known. Suppose, therefore, said Colonel Townsend, that in order to protect Cairo and the lower Mississippi Valley from the recent flood, the gates of these reservoirs had all been closed, so that not a drop of water would have been allowed to flow past Pittsburgh or St. Paul or St. Joseph until the floods would be too late to meet the flood from the lower Ohio tributary and add to the volume at Cairo. In spite of this restriction the flood flow of 2,000,000 cubic feet per second, which the river at Cairo attained at its record height, would have been diminished by only 35,000 cubic feet per second by such reservoirs. That is to say, it would have been diminished by less than 2 per cent of its total volume.

So much for reservoir protection.

Thanks to the cooperation of the Federal Government with the various States, the Mississippi levees are now completed to standard height and width for about 500 miles. The whole length of the levee line has been built up to a level that will withstand the normal floods. From now on the work to be done consists of completing the levees to standard height, width, and cross section.

Much has been heard naturally of the recent breaks in the levees at certain points, with the usual resulting losses; but it is a matter for congratulation and confidence that no break occurred in those portions of the levee which had been carried up to grade on the standard cross section determined by the Army engineers who have this work in hand. Ask any of the Army Engineer Corps who are concerned in levee construction whether they are satisfied with the way in which the work stood up against the highest flood on record and they will tell you that they are more than satisfied, and that they have the fullest confidence that when the work is completed such a thing as disastrous overflow of the Mississippi River will be extremely unlikely, if not impossible—provided, of course, that every care is taken to maintain the work in first-class condition.

A levee is a simple earth embankment located generally at a considerable distance inshore from the river bank, its exact location being determined by the topography of the ground and by the lay of the river and general flood conditions. Construction is carried on by excavating the material from borrow pits located usually on the land side of the levee, and it is done by the use of the scraper and other customary methods for such work. The cross section of a standard levee is shown in the accompanying illustration. It has a width of crown of 8 feet at a height 3 feet above the highest flood stage. The sides have a slope of 1 to 3, supplemented on the land side by banquettes 20 feet wide for levees from 10 to 13 feet high, 30 feet wide for levees 13 to 16 feet high, and 40 feet wide for levees more than 16 feet high, the tops of the banquettes being from 5 to 8 feet below the top of the levee.

To protect the levees from erosion by rain they are sodded with Bermuda grass. They are protected against the wash of waves by a layer of 4 inches of concrete or by a board protection.

We show illustrations of the methods of revetment which have been developed as a protection against bank erosion. There are three types—the willow mattress, the articulated concrete mat, and the solid concrete mat. In the articulated type each unit is 3 inches thick, 11½ inches wide, and 3 feet 11 inches long, the whole being reinforced with 12-inch wire mesh. Solid concrete mats are 50 feet by 150 feet in area and 3 inches thick. They are launched and sunk in a semiplastic state by pulling the launching barge out from under.

The question of when this great and urgently needed work will be completed is not one of engineering, for the Army engineers have solved the technicalities and demonstrated the complete efficiency of their methods. It is a question of the provision of the necessary funds, and this is for Congress and the several States concerned to decide. The present program is the appropriation of $45,000,000, to be available in annual installments of $10,000,000, these moneys to cover the control of the Mississippi and also of the Sacramento River, Calif.

Such, in broad outline, are the Mississippi flood-control problem and the approved means for its solution. It is not claimed that the latter are absolutely final. Each year's experience suggests new appliances, such as the concrete mats above referred to; and in a later issue we shall return to this subject with the presentation of a new type of brushwood or tree dike, designed to make the river build up again, by silting, stretches of land which have been washed away.

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[From the Outlook of July 26, 1922.]

MASTERING THE MISSISSIPPI—AN AUTHORIZED INTERVIEW WITH JOSEPH E. RANSDELL, UNITED STATES SENATOR FROM LOUISIANA.

(By Henry L. Sweinhart.)

Man's fight to keep the Mississippi from pouring over its banks into territory marked for human habitation began away back in 1719, when De Bienville laid out the beautiful city of New Orleans. A levee was provided in his plan to confine the father of waters to its channel.

Ever since that early day, more than 200 years ago, this fight to make man the master has been going on. Begun in a small way when the Mississippi Valley was still the home of the Indian, the work proceeded in a slow, sporadic way until the past 40 to 50 years. During this latter period most of the levees that line the Mississippi from Rock Island to the Gulf have been built.

In spite of the enormous amount of work which has been accomplished in making life and property along this giant river safe, much remains to be done before that permanent degree of security which is desirable for—in fact, demanded by—a great modern civilization can be assured. The flood damage of the past few months, which is a heavy loss to the wealth of the entire United States, and the floods of other recent years furnish striking and sufficient evidence of the need of completing the protecting walls along the Mississippi.

Most of this work in the past has been carried on and paid for through State and local initiative, although there has been considerable Federal aid. But the time has come when the assistance of the National Government is needed in a larger way if the levee system of the Mississippi, already so nobly begun, is to be completed in the near future, as it should be. To finish the herculean undertaking, thereby reclaiming millions of acres of valuable overflowed land all the way from Iowa and Illinois to the Gulf, adding many hundreds of millions of dollars to the permanent assets of the Nation, increasing its agricultural output, and preventing the almost annual deprivation and suffering which are caused by floods along the great central drainage artery of the country, it is necessary that a larger appropriation be made from the National Treasury.

The amount needed would be trifling in comparison with the benefit derived, and, moreover, a large part of it would be repaid to the Federal Government, with interest, so that it would be in reality a gilt-edged investment.

Thus was the situation described by United States Senator JOSEPH E. RANSDELL, of Louisiana, who for many years past has taken a deep interest in national river and harbor matters, particularly those affecting the Mississippi River.

"Experts of the Mississippi River Commission estimate that it would require from $30,000,000 to $35,000,000 to complete all the levees on the river from Rock Island to the Gulf to the full section and grade which the commission recommends," said Senator RANSDELL. "This seems a pitifully small sum when one considers the enormous value of the property behind the levees and the large number of human beings and live stock of every kind whose very existence is dependent upon them.

"The national character of the Mississippi as a channel of commerce needs no comment, and protection from its flood ravages is a matter of national importance, calling for national

attention and support. This mighty stream has been well called the Nation's drainage ditch. The waters from 31 States, including western New York, Pennsylvania, Maryland, Virginia, Georgia, and northern Alabama, and as far west as Idaho, pour through the well-named father of waters into the Gulf; and when the torrents of many States converge at the same time the burden becomes a colossal one even for this mighty stream.

"The riparian lands along its banks have borne a large part of the expense of fighting the floods which rush upon them from these 31 other States; and they are still willing to do their full part. They believe, however, that the Nation should handle this question in a big, broad way; that it should appropriate at once all the money necessary to complete the levee system; that it should continue systematically the work of revetment to prevent further caving in of the banks until the permanence of the levee is absolutely assured; and that if any other means of relief can be found to assist in solving the problem for any material portion or portions of the Mississippi River Valley it should be adopted."

The latest plan of Federal aid which seems to have met with widespread approval, declared Senator RANSDELL, is that which has been advanced by Senator MCKINLEY, of Illinois, commonly referred to as the McKinley plan. This provides that the National Government advance the money for completion of the levees in four or five years. This would be repaid into the United States Treasury by the localities protected through the issuance of long-term bonds bearing 4 per cent interest and 1 per cent added for amortization. The people along the river who derive the benefit would be willing and glad to repay this advance if given a sufficient time in which to do so.

Along with the levees, however, and in order to make them permanent, there must ultimately be a total of between four and five hundred miles of revetment work done, which would require from 25 to 40 years to complete, at an annual cost to the Government of about $4,000,000. This work has been recommended by the Mississippi River Commission and should be paid for by the National Government, declared Senator RANSDELL, as it is a permanent river improvement measure.

"For some years past," he continued, "the commission has been revetting the caving banks of the river with willow mattresses weighted with stones, which are placed in the caving bends when the water is at its lower stage. These revetments have proved very effective, and it is entirely feasible to protect all of these eroding places on the river in such manner as to make the banks permanent and prevent any of the levees from being washed away. This work of bank protection is absolutely essential, not only to protect the levees and in many cases large towns and cities from caving into the river, but also to maintain the navigability of the stream; and the Government is fully committed to its prosecution. The levees by keeping the water in the main channel exercise a scouring effect and cause the river to deepen, thereby benefiting navigation, whereas shallow bars form in the stream a few miles below every crevasse."

In speaking of the floods this spring, Senator RANSDELL asserted that there is much misconception as to the amount of damage done. Although accurate statistics are not yet available, he stated that, in his judgment, the levees have protected from 90 to 95 per cent of the cultivated lands which they were expected to protect, which, he thinks, is a very good showing for them.

"In making this computation," he explained, "one must not overlook the fact that there are several gaps in the levee system, notably at the mouths of the St. Francis, the White, and the Arkansas Rivers, in Arkansas; the Yazoo, in Mississippi; and the Red and Atchafalaya Rivers, in Louisiana. The levees in some instances extend down to the mouths of these rivers and in others come to a sudden stop several miles above the mouths, as at the Yazoo and the Red. When the waters rise above the normal banks of the river and are restrained by the levees they flow in large volume through these gaps and gradually cover very considerable areas adjacent to the lower portion of the tributary rivers, flooding in the aggregate between two and three million acres.

"In saying that the levees protected from 90 to 95 per cent of the area behind them I do not include the lands adjacent to the mouths of these tributary streams, which are flooded by the back water from the river rather than by breaks in the levee system.

"Much has been said about the crevasse at Ferriday, in Concordia Parish, La., which caused heavy losses. This levee was much below the standard grade and section recommended by the Mississippi River Commission as necessary for safety. Col. Charles L. Potter, president of the commission, says this levee contained only 48 per cent of the yardage of earth recommended by the commission. If this levee had been enlarged as recommended, I am sure the crevasse would not have occurred. It is certain that at no place where the levees were fully completed was any danger apprehended or experienced, except, as occasionally happens, a gap is made in a standard levee through the rapid caving of the river banks, owing to the erosive effects of its swift currents.

"Such a break occurred recently at Poydras, a few miles below the city of New Orleans. The levee there had been constructed very close to the bank of the river, and the water was quite high against it, several feet above the level of the country. The bank at that point eroded so rapidly when the water was at high stage that the entire levee caved into the river, making a breach through which the flood poured into the adjacent country with very disastrous effect. A similar crevasse was barely averted at Old Town levee, below the city of Helena, Ark., where the people had sufficient warning and were able to construct with rapidity and heavy cost a protection levee back of the old line.

"But the Senators and Representatives who made a recent inspection tour of the Mississippi from Memphis to New Orleans found the residents of the valley unanimous in their expressions that wherever their levees had been built according to the plans and specifications of the Mississippi River Commission they had experienced no trouble whatever and did not feel the least bit uneasy.

"Unfortunately, there are still many miles of levees in a very unsatisfactory condition, much smaller than the commission considers essential to safety."

In addition to completing the levees along the Mississippi proper approximately an equal amount of work should be done on some of the tributaries so far as they affect flood conditions in the larger stream, Senator RANSDELL stated. This would include levee construction along the banks of the streams near the mouths of the St. Francis, White, Arkansas, Yazoo, Atchafalaya, and Red Rivers. This, it is estimated, would cost approximately the same as the completion of the flood protection system along the Mississippi itself—that is, about $30,000,000. A bill is now pending in Congress, legislative in character and not carrying any appropriation, which would enlarge the jurisdiction of the Mississippi River Commission so that it would cover these tributary bodies of water. The section of the bill making this provision has met with the approval of the Senate Commerce Committee, and it is believed that it will pass both the Senate and House.

About 29,000 square miles, or 18,500,000 acres, of overflowed area in Iowa, Illinois, Missouri, Arkansas, Kentucky, Tennessee, Mississippi, and Louisiana, only about one-half of which is now under cultivation, but all of which is very rich agricultural land, would be added to the tillable acreage of these States, said Senator RANSDELL, through the completion of the levee system. Louisiana has 14,000 square miles of land subject to overflow, while Mississippi and Arkansas each have between 6,000 and 7,000 square miles.

Senator RANSDELL emphasized the fact that the increase in height of flood stages in the lower Mississippi has been caused by the clearing and draining of lands farther north, thus bringing the waters down the river during a shorter period of time than in the days when there were more natural reservoirs and forest cover in the northern States to hold the waters of heavy rains in check.

"A common impression prevails," he went on, "that the bed of the river is constantly rising, thereby necessitating higher and higher levees. It is not true that the bed is rising. Accurate statistics of Government officials for the past 60 years and very elaborate study of the subject by the Mississippi River Commission since its creation 43 years ago prove that the bed of the Mississippi River is not rising, but is lowering, if undergoing any change.

"It is true, however, that the surface plane of the river is materially higher than it was 40 years ago. United States Weather Bureau statistics prove this by their flood-stage figures over a number of years. These show, for instance, that the river at Cairo during the flood of 1882 measured 51.9 feet and this year 53.6; while farther south they are even more convincing. At Arkansas City in 1882 the river stood at 47 feet and this year at 58 feet, while at Baton Rouge, where 35 feet is the flood stage, it was 36 in 1882 and 44.6 this year.

"This rise in the surface plane of the river is due to the rapid and very thorough system of drainage in States like Kentucky, Ohio, Indiana, Illinois, Iowa, Missouri, and Arkansas, where most of the rains fall which produce the great floods of the Mississippi. Formerly there were many shallow lakes, ponds, swamps, and forests in these States, which held large quantities of rain water until it evaporated, constituting

in the aggregate vast natural reservoirs. After the drainage of these sections was perfected and the former shallow lakes, swamps, and forests became cultivated fields, the rain waters were carried rapidly through ditches and canals into the nearest rivers, which in turn poured them into the Mississippi, thereby greatly enlarging its normal volume of water. This increased elevation of surface plane has continued to grow higher and higher, as the various sections have completed and perfected their drainage systems; but the Mississippi River Commission believes that the full height of the surface plane has now been reached and that levees constructed according to their specifications will furnish adequate protection against any anticipated floods."

Senator RANSDELL, in passing, paid high tribute to the work of the Mississippi River Commission and to the character of its members, which has included Benjamin Harrison, later President of the United States; James B. Eads, the distinguished engineer; and many other able men. He declared that this board has studied in a most thorough and intelligent manner every problem connected with flood control and navigation of the Mississippi.

There are many persons in Louisiana, he said, who believe that, in addition to levees, below the mouth of Red River there should be one or more controlled spillways to carry off the crest of the flood when it reaches a moderately high stage, thereby taking off some of the strain and preventing an extreme height of flood. This question has been studied for a long time, he added, and many engineers are opposed to the spillway theory. Some engineers, however, and a great many laymen believe very strongly in the efficiency of spillways, and the subject is being studied further with great care.

This vitally interesting question of flood control on the Mississippi and relief for those who live along its banks and who suffer untold hardship and heavy financial loss whenever the high waters of the river break through a levee is one which will be of continuing concern until the National Government, which alone is able financially to handle the problem, comes to the rescue.

PROCLAMATION AND ADDRESS BY GOVERNOR MORRISON.

Mr. OVERMAN. Mr. President, I ask unanimous consent to have printed in the RECORD, in 8-point type, a proclamation and an address to the people of Cabarrus County, N. C., by the governor of that State. It is an able and patriotic address.

There being no objection, the proclamation and address were ordered to be printed in the RECORD in 8-point type, as follows:

A PROCLAMATION AND AN ADDRESS TO THE PEOPLE OF CABARRUS COUNTY.

(By Gov. Cameron Morrison, at Concord, August 19, 1921.)

A PROCLAMATION.

Representations of such character were made to me through sources which I credited that I thought it my duty to send State troops to the city of Concord to aid the local officers in keeping the peace. I hope this condition will quickly disappear, so the troops may be withdrawn. I recognize the industrial condition there creates a delicate situation, and I want to warn the people of the county to be prudent and temperate in conduct, and respect the legal rights of all parties.

People who desire to go in any of the mills and work have a legal right to do so, free from menace, insult, or intimidation of any character. The strikers have the right to present their cause by fair argument and in an orderly manner, through such representatives as do not amount to an overawing crowd, to such of the ingoing laborers as are willing to hear them; but they have no right to menace or threaten the ingoing laborers in their effort to present their cause; they have no right to force any person even to listen to them talk unless he wants to; they have no right to assemble such numbers as by their weight and demonstration to put the ingoing laborer in fear.

ORDINANCE NOT RECOGNIZED.

I will not recognize the validity of the ordinance of the city of Concord which forbids representatives of the strikers by fair argument to endeavor to make laborers who desire to take the place of strikers agree with their cause and refrain from work. I believe in the basic law of the land. The strikers have a right, when they will do so respectfully and in good nature, and without threat or menace, to present their argument to a person about to take their place, and if such a person agrees with them, to induce him to quit work, or not commence, because a person about to go to work, being a freeman and having a right to do so or not do so, as he pleases, it then follows that a person breaks no valid law who undertakes to persuade another to do that which he has a legal right to do.

I will, therefore, request the officer in command of the military forces on duty to permit reasonable-sized committees, as long as they will conduct themselves peacefully and respectfully, to present their cause to anybody they may see fit to present it to, but the officers will be directed to disperse all large assemblies brought together for the purpose of overawing and intimidating, by a display of numbers, those who desire to go to work, and to suppress all effort at intimidation and insult of every character calculated to produce a breach of the peace and riotous conditions. Striking laborers have a right to use argument to such extent as they can do so orderly, but they have no right in any manner whatsoever to put a person about to take their place in fear and by manifestations of physical force or thus, through display of numbers or manifestations of violence of any kind, to drive him from an exercise of his free will to work when and where he pleases.

MUST RESPECT LIBERTY.

The liberty of every person must be respected in this State, and order maintained.

As Governor of North Carolina, I appeal to all law-abiding men and women in the county of Cabarrus to respect the orders and directions of all military and police forces in the county of Cabarrus, and that they make such resistance as they feel should be made to such orders only in court and through due processes of law.

It is the solemn purpose of your governor to cause the military forces of the State to respect the legal right of all persons, and take no part in any peaceful economic battle which the conflicting forces of your county may engage in, but all must realize that our State is one of law and order, and that the full power of the State should be exercised to suppress any effort to substitute force and intimidation for argument in a controversy in this State.

Issued from the city of Asheville, on this the 15th day of August, 1921.

[SEAL.]

CAMERON MORRISON,
Governor of North Carolina.

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AN ADDRESS TO THE PEOPLE OF CABARRUS COUNTY BY GOV. CAMERON MORRISON, AT CONCORD, AUGUST 19, 1921.

My fellow citizens, my own judgment was against my coming here and speaking on this occasion; but Mr. Barrett, head of the Federation of Labor, and other prominent officials of organized labor, after our conference in Asheville on Wednesday the 17th, gave me most positive assurance that in their opinion my views of the situation and of the difficulties which beset all concerned here would be of great benefit. I frankly confess that I yielded my judgment in the matter to theirs because of my great desire for them to know that I was ready and anxious to do any proper thing to help arrive at a composition of the difficulties so distressing to all good people which surround this community and threaten others in the State.

I have not come here to apologize for sending State troops here at the urgent request of the mayor, the chief of police, and upon the statement of the sheriff that he and the police could no longer control the situation. If I erred, it can not be helped now; but I do want to express in the most emphatic language I can command that these soldiers were sent here simply to uphold the law and preserve peace, and that if they, or any one of them, take sides in any improper manner, I will use my influence as commander in chief of the troops to bring them to military trial for such misconduct.

I want to take them away from here at the very earliest moment that orderly conditions can be established, and that I can get the reasonable assurance of the local officers that they can control the situation, protect liberty, and preserve peace.

As patriotic North Carolinians and loyal citizens of our country, let us calmly and with charity for all, even those who err, consider the principles involved, and see if we can arrive at a basis and agree upon principles which ought to control every good man and woman interested in this situation.

What is the duty of the Government in respect to industrial controversies such as yours? After deep reflection, I declare to you that it is my honest judgment that if this really is a land of orderly liberty, then the Government has nothing whatever to do with it, except to preserve the peace and let the contending parties in an orderly way exercise their liberty and determine for themselves the questions involved.

It is the highest duty of any orderly government to protect the liberty of its citizens and preserve order, so that its citizens can make their contracts and transact their business about labor or any other matter free from intimidation and fear. I do not believe that the executive branch of the Government, or the judicial, has anything whatsoever to do with the settlement of a situation such as yours, except to uphold the

law as it has already been made by the legislative branch of the Government. Let us examine the principles involved fearlessly and honestly seek a sound basis from which to act.

I do not deem it wise or proper for the Governor of North Carolina to interpose and interfere with the making of a contract between citizens of this State.

The freedom of contract involves the very foundation of free government. For the Governor of North Carolina to endeavor to force men to make a contract in this State against their will is, in my judgment, a very improper thing to do.

Labor in North Carolina has a legal right to organize and to collectively bargain when organized, provided, however, that they can get somebody willing to bargain with them. Their right to collectively bargain can not be taken away from them under the constitutional securities of liberty, which are the very life of our Republic. No man has any right to call labor to the bar of public sentiment and lecture it for seeing fit to exercise its undoubted right to organize, and endeavor when organized to bargain for all concerned. I declare to all North Carolinians that it is wrong to undertake to create prejudice against and excite enmity to the labor people in North Carolina because they see fit to exercise their liberty for their interest in their own way. So far as I am informed, organized labor does not contend for any principles or legal right of importance of which I have not been, and am now, as a citizen, a champion. As to how they shall exercise their liberty, and whether they always exercise it wisely or not, is no man's business, and the lecturing and abuse of them which emanates from some quarters should be stopped.

On the other hand, employers with whom they want to contract have the right to contract with them or not contract with them as they see fit and deem it to their interest. This would no longer be a free country if citizens were forced to contract with any individual or group of individuals with whom they did not want to contract. There is no law under which the governor or any other offical can make them contract. None could be enacted under our Constitution. Dearer than our entire industrial fabric and all the wealth we have accumulated is the principle of liberty involved in the right, duly regulated by law, to freely contract and be contracted with about any lawful and moral matter properly the subject of a contract. It is true that we are our "brother's keeper," but I think the time has arrived when we had better recognize more of our brother's liberty, and permit him to attend to his own business. No man owes anybody an apology in this country for entering into or refraining from entering into any business contract, or refusing to enter into a business contract, which he may see fit to refuse to enter into.

There is a wide opinion that public sentiment must jerk up every large employer of labor and by abuse and vilification bring him into contempt when he exercises his undoubted privilege to refuse to enter into a contract which he does not want to enter into with his employees. It is his own business, and no man has any right, even those who want to make the contract which the employer in the exercise of his undoubted liberty will not make, to become angry with him, and abuse him and hate him. We are coming upon serious times in this Republic, and we had better recur to the primary principles of liberty, and reorganize the freedom of contract, and respect it. If the mill employers of this city and country will not enter into contracts with union labor, or with the individual laborers concerned, which labor wants them to enter into, it is absolutely nobody's business but their own.

If the foregoing statement of principles is not correct, then freedom of contract is destroyed in this Republic and we are no longer free, but under an absurd interpretation of the principle that we are our brother's keeper we have reached the place that no man can attend to his own business, but must transact it as liberty-despising public sentiment, fostered by ignorant leaders, requires him to do. Let us, before it is everlastingly too late, recognize the liberty of each citizen or group of citizens, as long as they will act orderly and respect the peace, to transact their business according to their own sweet will.

Without any law to justify me, if I should interpose in a controversy over a contract of employment in this State, the stage would finally be reached when I thought one side or the other willing to do the right thing, and then such influence as my high office has would be thrown against the side I disagreed with. This would result in an effort to do by moral official force that which every intelligent citizen will readily admit can not be done by force of law, and which would result in an end of free government if it could be done by law. I am unwilling to throw the influence of my office against any citizen or group of citizens to force him or them to enter into any contract which they may not desire to enter into, however foolish or unwise his course may be.

I would be most happy to see a freely arrived at adjustment between the conflicting industrial forces of Cabarrus County or elsewhere, but I am satisfied that settlement arrived at through coercion, governmental or otherwise, other than purely economic, would not bring permanent understanding. We must go to basic principles about these controversies and recognize the absolute freedom of individuals or groups of individuals in this State to contract and be contracted with, without coercion by influential public officials or by intimidating coercive assemblies engaging in insult and intimidation.

I believe in recognizing every legal right of organized labor but I also believe in recognizing every legal right of employers of labor and every legal right of unorganized labor.

Furthermore, if I should inject myself into this controversy and endeavor to adjust it, I fear I would no longer have the confidence of the side I had come to a judgment against in my efforts to uphold the law which a continued conflict might necessitate.

In respect to the disorder which had assumed threatening proportions in Cabarrus County, I think it arose largely from the fact that the local police officers did not clearly comprehend their duty more than from any unwillingness to discharge it. There has been much confusion in the public mind as to what would constitute illegal practices in a tense situation produced between striking laborers and those about to take their place. I announced in my letter to Sheriff Cochrane, of Mecklenburg, some time ago—by the way, the widely published statement that Sheriff Cochrane called for troops was untrue: he merely asked me for instructions—that it was the duty of the local police authorities to use all the necessary power to keep order and suppress intimidation and interference of anybody's rights, but that I would unhesitatingly send troops anywhere they were needed, whatever cause produced the trouble.

Of course, I recognize that there will be criticism of my action in sending troops to Cabarrus County, but I thought it to be my duty, and I declare now that during my term of office as governor liberty, law, and order shall not be stifled in any community in this State; no citizen who wants to work shall be intimidated and prevented from doing so through fear of any influence, however powerful.

If all officials, from the highest to the lowest, and the public will recognize that liberty to contract and be contracted with, or not to contract and be contracted with, is more priceless than any other principle of liberty except that of life and personal security, and that this liberty must be orderly enjoyed, and under this principle let conflicting parties to these industrial disputes settle their own difficulties as other people have to do, we will have arrived at a basis which will clear up the whole situation.

If public sentiment, high State officials, and the press were to undertake to dictate to the farmers of North Carolina and those who work for them, the merchants and other business people in the State employing small numbers of laborers, how and when and at what price they should make their contracts, it would become laughable and would not be tolerated by the freemen of this State for one moment. The underlying principles are the same. A controversy between a great manufacturing plant and 1,500 employees is of no more sacred importance, and should be dealt with upon the same principle as a controversy between a merchant and his two clerks or a farmer and his two plow hands.

As governor of North Carolina I have nothing to do with the contracts made between the people of this State about matters subject to contract and which are not illegal or immoral in their nature, other than when conditions arise which threaten the peace and order of the community in which they are being made, and it then becomes my duty to uphold the law.

Hundreds of men and women in Cabarrus County wanted to go to work. I have nothing to do with whether they ought to have gone or not. They had a legal right to work, and a government which would not protect them from jeering, insulting, and intimidating crowds, numbering hundreds, would be unworthy of the loyalty of patriotic men.

Troops under my command will not in this emergency, or any other, violate the liberty of any citizen of this State, or interfere, further than the preservation of peace may require, with the orderly movement of its citizens; but as I understand my duty I propose to see that peace and order prevail in every community of this State. The troops under my command will not overawe and intimidate any human being in North Carolina, save one who stands for the standard of insurrection and enmity to orderly government. To the insurrectionist or champion of mob government the State of North Carolina, so far

as I control its official action, has nothing to offer save its righteous condemnation and the assertion that to the full power intrusted in the commander in chief of the military forces of this State they will be suppressed and made to live in order and respect the liberty of the humblest laborer as well as the largest property owner within the State's borders.

I think I fully understand the legally established rights of laborers on strike and of those who may desire to take their place. I set them forth in the proclamation which I issued a few days ago to the people of Cabarrus County. I do not know who was to blame for the condition of threatened lawlessness here which caused the mayor, the chief of police, and many good citizens to call upon me as governor of the State to send troops here to preserve the peace and protect life. I pass no judgment. The immediate provocations may have come either from the ingoing laborers or from those on strike, or not from either but from meddlesome sympathizers; but, however this may have been, my sole desire was to preserve the peace, protect human life, and allow a peaceful struggle under the law between the conflicting forces here.

No law-abiding citizen should look with awe and dread upon the heroic men who wear our country's uniform. I suspect the lawful intention of any citizen of this land of law and order who hates the sight of the men who wear the uniform of our country's military forces, and who, in the hours of peril to our liberties and all we hold dear, will take the lead in standing forth to preserve for us and our children the principles of liberty upon which the country rests. Some of the men who are trying to bring into derision and contempt the military forces of this State ought to remember that most of them are men who stepped under the country's flag with a courage worthy of the heroes who established this country and met on Europe's bloody battle fields the hosts of the Hun, and through sacrifice and suffering kept every flag symbolizing liberty on earth from being torn down and tramped under foot by the autocrat.

The troops here are under the command of Gen. J. Van B. Metts, who commanded the One hundred and nineteenth Infantry Regiment of the Thirtieth Division in the Hindenburg-line fight, and side by side with the One hundred and twentieth Infantry Regiment, commanded by another North Carolina colonel, carried the standard of law and order and liberty through the Hindenburg line and finished the downfall of the liberty-hating Hohenzollern and Hapsburg dynasties. He loves liberty and peace, and has made proof of it as daring as any patriot who ever faced shot and shell and fire and death for free government. No man except the enemy of order and liberty and peace need fear any body of men under the command of Metts and the heroic captains who command the three companies in this county.

But I want to move them away from here, and I appeal to all men in this county, whether you are standing under the standard of union labor and doing what you can to aid the striking laborers or on the other side. Whoever you are and wherever your sympathies may be, I appeal to you as a citizen of North Carolina to give your influence quickly and without delay to the sheriff and the police officers and establish by common concord of all good men in this county a respect for order, liberty, and peaceful argument which will justify me in moving the troops here from your county. They neither want to stay nor do I want them to stay. They are here at immense sacrifice to themselves, and only for the purpose of enabling each side to this controversy to enjoy all the liberty guaranteed its followers by the law of the land. It is along these lines and upon these principles that we can continue to enjoy liberty in this State and country.

Finally, I want to appeal to all conflicting classes to submerge and forget their class consciousness and class interest in an unselfish devotion to the precious principles of our Government. This country ought not to be governed, and must not be governed, by direct group government, nor by the overpowerful and rich, nor by any class, but it must be governed by men who, above material things and above any class, stand together upon the great basic principles of human freedom.

I beg in conclusion that the Christians and patriots in this community quickly come together as brothers and establish law and order and quiet in your community, and if this industrial conflict can not be settled—which I devoutly hope the parties to it can do—then let it proceed until one side or the other has whipped in a peaceful economic contest.

TRANSPORTATION RATES FOR VETERANS.

Mr. CAPPER presented a resolution unanimously adopted by Garfield Post, No. 25, Grand Army of the Republic, of Wichita, Kans., favoring the passage of the so-called Jones bill (S. 3463) relating to transportation rates for veterans, and for other purposes, which was referred to the Committee on Interstate Commerce.

SUPPRESSION OF MOB VIOLENCE.

Mr. SHORTRIDGE. Mr. President, I ask unanimous consent, by direction and on behalf of the Judiciary Committee, to report with amendments the bill (H. R. 13) to assure to persons within the jurisdiction of every State equal protection of the laws and to punish the crime of lynching, and I submit a report (No. 837) thereon.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the report will be received.

Mr. SHORTRIDGE. I also ask unanimous consent that the report may be printed in the RECORD, and, in addition, I desire to give notice that I shall seek and take advantage of the earliest opportunity to bring the bill before the Senate for its consideration.

The PRESIDENT pro tempore. Without objection the report submitted by the Senator from California will be printed in the RECORD.

The report (No. 837) is as follows:

[Senate Report No. 837, Sixty-seventh Congress, second session.]

ANTILYNCHING BILL.

Mr. SHORTRIDGE, from the Committee on the Judiciary, submitted the following report to accompany H. R. 13:

The Committee on the Judiciary, to which was referred the bill (H. R. 13) to assure to persons within the jurisdiction of every State the equal protection of the laws and to punish the crime of lynching, having considered the same, report the bill favorably to the Senate with the following amendments, and as so amended recommend its passage:

1. On page 3, in line 19, strike out all of section 4 after the word "therein," and insert in lieu thereof the following:

"*Provided*, That it shall be charged in the indictment that by reason of the failure, neglect, or refusal of the officers of the State charged with the duty of prosecuting such offense under the laws of the State to proceed with due diligence to apprehend and prosecute such participants the State has denied to its citizens the equal protection of the laws. It shall not be necessary that the jurisdictional allegations herein required shall be proven beyond a reasonable doubt, and it shall be sufficient if such allegations are sustained by a preponderance of the evidence."

2. On page 4, in line 17, after the word "shall" and before the word "forfeit," insert the following words:

"if it is alleged and proven that the officers of the State charged with the duty of prosecuting criminally such offense under the laws of the State have failed, neglected, or refused to proceed with due diligence to apprehend and prosecute the participants in the mob or riotous assemblage."

3. On page 5, in line 3, strike out the word "should" and insert in place thereof the word "shall."

The bill, with the amendments reported by the committee, will read as follows:

An act to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching.

Be it enacted, etc., That the phrase "mob or riotous assemblage," when used in this act, shall mean an assemblage composed of three or more persons acting in concert for the purpose of depriving any person of his life without authority of law as a punishment for or to prevent the commission of some actual or supposed public offense.

SEC. 2. That if any State or governmental subdivision thereof fails, neglects, or refuses to provide and maintain protection to the life of any person within its jurisdiction against a mob or riotous assemblage, such State shall by reason of such failure, neglect, or refusal be deemed to have denied to such person the equal protection of the laws of the State, and to the end that such protection as is guaranteed to the citizens of the United States by its Constitution may be secured it is provided:

SEC. 3. That any State or municipal officer charged with the duty or who possesses the power or authority as such officer to protect the life of any person that may be put to death by any mob or riotous assemblage, or who has any such person in his charge as a prisoner, who fails, neglects, or refuses to make all reasonable efforts to prevent such person from being so put to death, or any State or municipal officer charged with the duty of apprehending or prosecuting any person participating in such mob or riotous assemblage who fails, neglects, or refuses to make all reasonable efforts to perform his duty in apprehending or prosecuting to final judgment under the laws of such State all persons so participating except such, if any, as are or have been held to answer for such participation in any district court of the United States, as herein provided, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment not exceeding five years or by a fine of not exceeding $5,000, or by both such fine and imprisonment.

Any State or municipal officer, acting as such officer under authority of State law, having in his custody or control a prisoner, who shall conspire, combine, or confederate with any person to put such prisoner to death without authority of law as a punishment for some alleged public offense, or who shall conspire, combine, or confederate with any person to suffer such prisoner to be taken or obtained from his custody or control for the purpose of being put to death without authority of law as a punishment for an alleged public offense, shall be guilty of a felony, and those who so conspire, combine, or confederate with such officer shall likewise be guilty of a felony. On conviction the parties participating therein shall be punished by imprisonment for life or not less than five years.

SEC. 4. That the district court of the judicial district wherein a person is put to death by a mob or riotous assemblage shall have jurisdiction to try and punish, in accordance with the laws of the State where the homicide is committed, those who participate therein: *Provided*, That it shall be charged in the indictment that by reason of the failure, neglect, or refusal of the officers of the State charged with the duty of prosecuting such offense under the laws of the State to proceed with due diligence to apprehend and prosecute such participants the State has denied to its citizens the equal protection of the laws. It shall not be

necessary that the jurisdictional allegations herein required shall be proven beyond a reasonable doubt, and it shall be sufficient if such allegations are sustained by a preponderance of the evidence.

SEC. 5. That any county in which a person is put to death by a mob or riotous assemblage shall, if it is alleged and proven that the officers of the State charged with the duty of prosecuting criminally such offense under the laws of the State have failed, neglected, or refused to proceed with due diligence to apprehend and prosecute the participants in the mob or riotous assemblage, forfeit $10,000, which sum may be recovered by an action therefor in the name of the United States against such county for the use of the family, if any, of the person so put to death; if he had no family, then to his dependent parents, if any; otherwise for the use of the United States. Such action shall be brought and prosecuted by the district attorney of the United States of the district in which such county is situated in any court of the United States having jurisdiction therein. If such forfeiture is not paid upon recovery of a judgment therefor, such court shall have jurisdiction to enforce payment thereof by levy of execution upon any property of the county, or may compel the levy and collection of a tax therefor, or may otherwise compel payment thereof by mandamus or other appropriate process; and any officer of such county or other person who disobeys or fails to comply with any lawful order of the court in the premises shall be liable to punishment as for contempt and to any other penalty provided by law therefor.

SEC. 6. That in the event that any person so put to death shall have been transported by such mob or riotous assemblage from one county to another county during the time intervening between his capture and putting to death, the county in which he is seized and the county in which he is put to death shall be jointly and severally liable to pay the forfeiture herein provided.

SEC. 7. That any act committed in any State or Territory of the United States in violation of the rights of a citizen or subject of a foreign country secured to such citizen or subject by treaty between the United States and such foreign country, which act constitutes a crime under the laws of such State or Territory, shall constitute a like crime against the peace and dignity of the United States, punishable in like manner as in the courts of said State or Territory, and within the period limited by the laws of such State or Territory, and may be prosecuted in the courts of the United States, and upon conviction the sentence executed in like manner as sentences upon convictions for crimes under the laws of the United States.

SEC. 8. That in construing and applying this act the District of Columbia shall be deemed a county, as shall also each of the parishes of the State of Louisiana.

That if any section or provision of this act shall be held by any court to be invalid, the balance of the act shall not for that reason be held invalid.

An elaborate report was made by Mr. DYER for the Committee on the Judiciary of the House upon the original bill (H. Rept. No. 452), which sets forth so fully the situation which the proposed legislation seeks to remedy, and the grounds upon which the bill is based, that we feel that we can not do better than to incorporate the same as a part of this report.

The substance of the report, omitting only the text of the bill reported by the House, is as follows:

"The prevalence in many States of the spirit which tolerates lynching, accompanied too often with inhuman cruelty and the inability or unwillingness of the public authorities to punish the persons who are guilty of this crime, threaten very seriously the future peace of the Nation. Not only is lynching a denial of the right secured by law to every man of a fair trial before an established court in case he is charged with crime, not only does it brutalize the communities which suffer it by breeding a spirit of lawlessness and cruelty in the young people who see barbarities unpunished and uncondemned, not only does it terrorize important bodies of our citizens, but it inevitably leads the people whose rights are thus trampled upon to leave the regions where their lives, their families, and their property are in danger, and move to others where they can find peace and protection, thus disturbing the labor situation all over the country. It also blots our fair name as a Nation, for we can not claim to be civilized until our laws are respected and enforced and our citizens secured against the hideous cruelties of which we are constantly furnishing fresh examples.

"The people of the United States suffer justly under the grievous charge that they continue to tolerate mob murder. It is well known that the innocent, equally with the guilty, suffer the cruel inflictions of mob violence. Mobs have even invaded court rooms and prisons to seize and murder prisoners whose punishment had already been fixed. Local and State authorities frequently offer only the feeblest objection to the actions of the mob which is permitted to do its will unchecked. Rarely are the members of a mob sought out and prosecuted even when, undisguised and in full daylight, they have participated in murder, and only in a few isolated cases has any lyncher ever been punished. Patriotic citizens throughout the country feel the shame which lynchings cast upon the Nation. The time has come when the United States can no longer permit the setting at naught of its fundamental law. We can no longer permit open contempt of the courts and lawful procedure. We can no longer endure the burning of human beings in public in the presence of women and children; we can no longer tolerate the menace to civilization itself which is contained in the spread of the mob spirit.

"The Republican Party, which received such a large majority at the last general election, adopted as a part of its platform at Chicago the following:

"'We urge Congress to consider the most effective means to end lynching in this country, which continues to be a terrible blot on our American civilization.'

"President Harding, in his first message to the Congress, on April 12, said:

"'Congress ought to wipe the stain of barbaric lynching from the banners of a free and orderly representative democracy.'

"Ex-President Wilson, on July 26, 1918, issued an appeal to the American people to stop lynchings. He said:

"'I therefore very earnestly and solemnly beg that the governors of all the States, the law officers of every community, and above all, the men and women of every community in the United States, all who revere America and wish to keep her name without stain or reproach, will cooperate, not passively merely, but actively and watchfully to make an end of this disgraceful evil. It can not live where the community does not countenance it.'

"Ex-Attorney General Gregory, May 6, 1918, in an address to the American Bar Association, said:

"'We must set our faces against lawlessness within our own borders. Whatever we may say about the causes for our entering this war, we know that one of the principal reasons was the lawlessness of the German nation—what they have done in Belgium and in northern France, and what we have reason to know they would do elsewhere. For us to tolerate lynching is to do the same thing that we are condemning in the Germans.

"'Lynch law is the most cowardly of crimes. Invariably the victim is unarmed, while the men who lynch are armed and large in numbers. It is a deplorable thing under any circumstances, but at this time, above all others, it creates an extremely dangerous condition. I invite your help in meeting it.'

"These and similar appeals have gone for naught. Lynchings continue. This is evidenced by many lynchings that have taken place this year. It is impossible to get data touching all these outrages. Many lynchings take place and the facts never reach the public. I include a memorandum showing some of the very recent lynchings, to wit:

Lynching, 1921.

Name.	Date.	Place.	Manner of lynching.
1. Jim Roland	Jan. 2	Mitchell County, Ga	Shot.
2. Robert Lewis	Jan. 4	Meridian, Miss	
3. Sam Williams	Jan. 6	Talbotton, Ga	Hanged.
4. William Beard (white)	Jan. 13	Jasper, Ala	Shot.
5. Alfred Williams	Jan. 24	Norlina, N. C	Do.
6. Plummer Bullock	...do	.....do	Do.
7. Henry Lowery	Jan. 26	Nodena, Ark	Burned.
8. George Werner	Feb. 1	Port Allen, La	Hanged.
9. ———	Feb. 4	Vicksburg, Miss. (near)	
10. Elijah Jones	Feb. 12	Ocala, Fla	Do.
11. Ben Campbell	Feb. 10	Wauchula, Fla	Do.
12. ———	Feb. 12	Odena, Ala	
13. John Eberhardt	Feb. 16	Athens, Ga	Burned.
14. Richard James	Mar. 13	Versailles, Ky	Hanged.
15. William Bowles	Mar. 14	Eagle Lake, Fla	Do.
16. Browning Tuggle	Mar. 15	Hope, Ark	Do.
17. Adolphus Ross	Mar. 19	Water Valley, Miss	Do.
18. Arthur Jennings	Mar. 20	Hattiesburg, Miss	Do.
19. Phil Slater	Mar. 22	Monticello, Ark	Do.
20. Sandy Thompson	Apr. 4	Langford, Miss	Do.
21. Rachel Moore	Apr. 9	Rankin County, Miss	Do.
22. Tony Williams	Apr. 15	Rodessa, La	Shot.
23. ———	Apr. 25	Carriere, Miss. (Picayune)	Hanged.
24. Roy Hammonds	Apr. 29	Bowling Green, Mo	Do.
25. ——— (white)	Feb. 6	Monroe, La	Burned.
26. Berry Bolling (white)	May 7	Huntsville, Tenn	Hanged.
27. Sam Ballinger	May 8	Starke, Fla	Do.
28. Leroy Smith	May 11	McGhee, Ark	
29. George Marshall	Apr. 15	Lauderdale, Miss	Shot.
30. John Henry Williams	June 18	Moultrie, Ga	Burned.
31. ———	...do	Enid, Miss	Shot.
32. Herbert Quarles	June 19	McCormick, S. C	Do.
33. Louis Wimberly	June 20	Jackson, Miss	Hanged.
34. "Red" Bilbro	June 29	Madison County, Miss	Do.
35. Casey Jones (white)	July 23	Hattiesburg, Miss	Do.
36. ———	Aug. 3	Lawrenceville, Va	Do.
37. Alex. Winn	Aug. 15	Datura, Tex	Hanged (body burned).
38. Walter Smalley	Aug. 16	Augusta, Ga	Do.
39. Will Allen	Aug. 24	Chapin, S. C	
40. William Anderson	Mar. 4	Baker County, Ga	
41. ———	Jan. —	———, Ga	Shot.
42. ———	.....	———, Ga	Hanged.
43. ———	.....	———, Ga	Drowned.
44. ——— (woman)	.....	———, Ga	Do.
45. Mansfield Butler	Sept. 8	Aiken, S. C	Shot.
46. Charlie Thompson	...do	.....do	Do.
47. Gilman Holmes	Sept. 13	Columbia, La	Hanged (body burned).
48. Ernest Daniels	Sept. 18	Pittsboro, N. C	Hanged.
49. Edward McDowell	Sept. 19	McComb, Miss	
50. Jerome Whitfield	Aug. 14	Jones County, N. C	Do.
51. Ed. Kirkland	Oct. 24	Allendale, S. C	Shot (body burned).
52. Sam Gordon	Oct. 25	Winneboro, La	Hanged.

"In the 30 years from 1889 to 1918, 3,224 persons were lynched, of whom 2,522 were negroes, and of these 50 were women. The North had 219; the West, 156; Alaska and unknown localities, 15; and the South, 2,834, with Georgia leading with 386 and Mississippi following with 373. Yet in Georgia negroes paid taxes on 1,664,368 acres and owned property assessed at $47,423,499. Of the colored victims 19 per cent were accused of rape and 9.4 per cent of attacks upon women. In the year 1919, 77 negroes, 4 whites, and 2 Mexicans were lynched. Ten of the negroes were ex-soldiers, one was a woman. During 1920 there were 65 persons lynched; 6 were white and 59 were negroes; 31 were hanged, 15 shot, 8 burned, 2 drowned, 1 flogged to death, and 8 manner unknown; 24 were charged with murder, 2 assault on woman, 15 attack on woman, 3 insulting woman, 1 attempted attack on woman, 1 attack on boy, 1 stabbing man, and 3 assaulting man.

"The Congress must provide the means of ending this cowardly crime. It is in punishing those who take part in it or who permit it. Congress has the power to enact this bill into law.

"The fourteenth amendment to the Constitution provides that no State 'shall deny to any person within its jurisdiction the equal protection of the laws,' and further provides that 'the Congress shall have power to enforce, by appropriate legislation, the provisions of this article.' It is well settled by decisions of the Supreme Court of the United States that the denial forbidden is not alone a denial by positive legislation but that 'no agency of the State or of the officers or agents by whom its powers are exerted shall deny to any persons within its jurisdiction the equal protection of the laws.'

"It is thus made the duty of the Congress under the Constitution to enact such laws as may be needful to assure that no State shall deny to any person within its jurisdiction the equal protection of the laws. Within the limits of the jurisdiction thus conferred the Congress has the right to exercise its discretion as to laws or what means can best accomplish the desired end.

"In nearly all cases of lynching the person put to death is taken by a mob from the sheriff, marshal, or other police officer of the State, whose failure to defend and protect him denies to him the equal protection of the laws.

"In Ex parte Virginia (100 U. S. 339, 346) the Supreme Court in a unanimous opinion by Mr. Justice Strong, speaking of the prohibitions of the fourteenth amendment, says:

"'They have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision therefore must mean that no agency of the State or of the officers or agents by whom its powers are exerted shall deny to any person within its jurisdiction the equal protection of the laws. Whoever by virtue of public position under a State government deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition, and as he acts in the name and for the State, and is clothed with the State's power, his act is that of the State. This must be so or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.

"'But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons, and to insure to all persons the enjoyment of such rights power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured.' (See also the very recent cases of Home Telephone Co. v. Los Angeles, 227 U. S. 278, 290; Buchanan v. Worley, 245 U. S. 60, 77.)

"A distinguished southern judge has given this definition:

"'By "equal protection of the laws" is meant equal security under them to everyone in his life, his liberty, his property, and in the pursuit of happiness. It not only implies the right of each to resort on the same terms with others to the courts of the country for the security of his person and property, the prevention and redress of wrongs, and the enforcement of contracts, but also his exemption from any greater burdens and charges than such as are equally imposed on all others under like circumstances.'

"The Supreme Court of the United States says of this provision:

"'When the facts shown establish an administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the laws as adopted, they are applied by the public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secured to the petitioners as to all other persons, by the broad and benign provisions of the fourteenth amendment to the Constitution of the United States, though the law itself be fair on its face and impartial in appearance, yet if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances material to their rights, the denial of equal justice is still within the prohibition of the Constitution.'

"In another case the same court said:

"'An actual discrimination against a negro, on account of his race, by officers intrusted with the duty of carrying out the law is as potential in creating a denial of equality of rights as a discrimination made by law.'

"Article I, section 8, of the Constitution gave the Congress the power 'to provide for organizing, arming, and disciplining the militia and for governing such part of them as may be employed in the service of the United States,' as well as 'to provide for calling for the militia to execute the laws of the Union, suppress insurrections, and repel invasions,' but it was not until long after the adoption of the fourteenth amendment that our courts construed 'insurrections' to include mobs and riotous assemblages. Under these two provisions quoted there can be no doubt whatever as to the power of Congress to define and punish the crime of lynching.

"One can not conceive a more humiliating or shameful admission to be made by a Government claiming to be a sovereign State than the confession that it is without the power to make good the guaranty in its Constitution that no person shall be deprived of life, liberty, or property without due process of law. It is nevertheless the fact that in almost numberless instances our State Department has so stated in official communications to civilized nations like France, Spain, China, Italy, and Great Britain.

"The Congress has appropriated and the Government has paid to other Governments no less a sum than $792,499.39 to compensate the murder by lynching of their citizens by American mobs, and there are now with the Department of State unadjusted claims to a large amount for similar murders of Austrians, Greeks, Japanese, and Italians. Every diplomatic letter sent by our foreign office to another nation with regard to these claims has stated that the Federal Government is impotent to protect strangers within our borders and seeks to lay the blame on the State governments under which the lynchings have occurred. Every such letter admits the dereliction of Congress in not enforcing the guaranties of the fourteenth amendment and adds to the appeal to Congress to delay action no longer in enacting the legislation in contemplation when the fourteenth amendment was adopted in 1868.

"This sum of $792,499.39 was paid for less than 100 lives of foreigners taken by mobs. The inquiry is pertinent that if we have paid $800,000 for less than 100 murdered foreigners, how much has the country lost by the murders of 3,307 Americans killed by mobs since 1889?

"The bill reported by this committee seeks (1) to prevent lynchings as far as possible by punishing State and municipal officers who fail to do their duty in protecting the lives of persons from mobs; (2) to punish the crime of lynching; and (3) to compel the county in which the crime is committed to make compensation.

"Section 5 exacts from the county in which a person is lynched a penalty of $10,000, recoverable in an action directed to be brought by the district attorney in the name of the United States for the use of the dependent family, if any, and if there be no dependent family, for the use of the United States.

"Such provisions are common in State legislation and are justified as to citizens lynched by the fact that the penalty makes it to the interest of every taxpayer of the county to prevent the lynching.

"This section does nothing more than adopt the South Carolina and Ohio laws imposing a penalty on the county in which the laws against lynching have failed of enforcement, and such laws have been held constitutional in both States by their respective supreme courts, the law of South Carolina in Brown v. Orangeburg County (55 S. C. 45; 32 S. E. 764), and the Ohio law in Commissioners v. Church (62 Ohio St. 318). The committee can find no stronger argument for this remedy for an admitted evil than in the following words from the opinion of the Supreme Court of South Carolina:

"'It has been held that statutes making a community liable for damages in cases of lynchings and giving a right of recovery to the legal representatives of the person lynched are valid on the ground that the main purpose is to impose a penalty on the community, which is given to the legal representatives not because they have been damaged but because the legislature sees fit thus to dispose of the penalty. Such statutes are salutary, as their effect is to render protection to human life and make communities law-abiding."

Hon. Guy. D. Goff, assistant to the Attorney General of the United States, appeared before the committee on July 20 with reference to this bill. His statement, in part, is as follows:

"This bill seeks to confer upon the Federal courts jurisdiction to enforce the law and maintain the peace of the United States, which is nothing more than the so-called police power of the United States. You are familiar with that 'excursion,' if I may so term it, of the Supreme Court into the field of Federal police power. It was first announced in Gibbons v. Ogden (9 Wheat. 202), and has found definite application in the so-called white-slave cases. I recall those decisions distinctly because at that time I was engaged as an attorney for the United States in the interpretation and enforcement of the white slave law. In Gibbons v. Ogden, supra, Chief Justice Marshall (at p. 202) said: 'It is obvious that the Government of the Union in the exercise of its express powers * * * may use means that may also be employed by a State in the exercise of its acknowledged powers.' In the case which held the white slave law constitutional, Hoke against the United States (227 U. S. pp. 308 and 309), the court said:

"'While our dual form of government has its perplexities, State and Nation having different spheres of jurisdiction, we are one people and the powers reserved to the States and those conferred on the Nation are adapted to be exercised, whether independently or concurrently, to promote the general welfare, material and moral.

"'The white slave traffic act is a legal exercise of the power of Congress under the commerce clause of the Constitution and does not abridge the privileges or immunities of citizens of the States or interfere with the reserved powers of the States, especially those in regard to regulation of immoralities of persons within their several jurisdictions.'

"In Hoke v. United States (227 U. S. 308, 323), speaking expressly of the power of Congress over interstate transportation, it was said 'the power is complete in itself, and that Congress, as an incident to it, may adopt not only means necessary but convenient to its exercise, and the means may have the quality of police regulations.'

"And in Wilson v. United States (232 U. S. 563, 567), speaking of the white slave law, which was held constitutional, the court said:

"'As has already been decided, it has the quality of a police regulation, although enacted in the exercise of the power to regulate interstate commerce.'

"In Seven Cases of Eckman's Alterative v. United States (239 U. S. 510, 515) it was said:

"'Congress is not to be denied the exercise of its constitutional authority over interstate commerce, and its power to adopt not only means necessary but convenient to its exercise, because these means may have the quality of police regulations.'

"And an even more direct statement to this effect is:

"'Congress may establish police regulations as well as the States, confining their operations to the subjects over which it is given control by the Constitution; * * * Gloucester Ferry Co. v. Pennsylvania (114 U. S. 196, 215), citing Cooley's Constitutional Limitations, 732.'

"In other words, when necessary for the proper exertion of its express powers, Congress may use exactly the same means which the State may use for the exertion of its own powers. This is no new doctrine. In Gibbons v. Ogden, supra, it was said:

"'It is obvious that the Government of the Union, in the exercise of its express powers, that, for example, of regulating commerce with foreign nations and among the States, may use means that may also be employed by a State, in the exercise of its acknowledged powers; that, for example, of regulating commerce within the State.'

"And again, in the very recent case, Hamilton v. Kentucky Distilleries Co. (251 U. S. 146, 156) (decided December, 1919), involving the constitutionality of the war time prohibition act, Mr. Justice Brandeis, speaking for the court, stated the principle thus:

"'That the United States lacks the police power, and that this was reserved to the States by the tenth amendment is true. But it is none the less true that when the United States exerts any of the powers conferred upon it by the Constitution, no valid objection can be based upon the fact that such exercise may be attended by the same incidents which attend the exercise by a State of its police power, or that it may tend to accomplish a similar purpose.'

"We had a somewhat hazy comprehension of the police powers of the State and the corresponding rights of the Federal Government. This line of cases holds that there is a Federal police power. Now, if here is a Federal police power, it must be by virtue of some power conferred on the Federal Government by our Constitution. It was conferred in the White Slave cases by the commerce clause. I assume, therefore, in this argument that there is such a Federal police power, a concomitant, as it were, to preserve law and order, and to see that the laws are equally enforced, and to see that no man is denied or deprived of the common right to enjoy life, liberty, and property, and that such rights are conferred upon the Federal Government by the fourteenth amendment to the United States Constitution.

"A case which has caused some discussion is the case of James v. Bowman (90 U. S. 127). I refer to this case, first, because it may be cited in contradiction of the underlying principles of the statement I have made. This case involved the fifteenth amendment to the United States Constitution. It grew out of an indictment in the State of Kentucky, based upon section 5507 of the Revised Statutes of the United States, which sought to punish anyone who attempted to interfere with a person going to or from the polls, or intimidate those who sought to exercise their prerogative to vote as they saw fit. The Supreme Court held that the indictment was improvidently conceived and said that the fifteenth amendment, which reads 'the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude" was an amendment which prohibited

the State but did not reach the individual. Such was the underlying principle which controlled and which differentiates this case from the other cases. Mr. Justice Brewer wrote the opinion and, in addition to holding that the fifteenth amendment was a curb upon the Federal and State Governments, expressly said that it did not in any sense relate to individuals. He recognized the undoubted existence of the police power of the State and, in the last lines of the decision, remarked that the act was unconstitutional because it was too broad in its terms.

"Congress, he concluded, has no power to punish bribery at all elections. The limits of its power are in respect to elections in which the Nation is directly interested, or in which some mandate of the National Constitution is disobeyed, and courts are not at liberty to take a criminal statute, broad and comprehensive in its terms, and in these terms beyond the power of Congress, and change it to fix some particular transaction for which Congress might have legislated, if it had seen fit.'

"The court recognized the rule, with which we are all familiar, that while a statute may be constitutional in some provisions and unconstitutional in others, the courts will hold it constitutional if they can separate, without destroying the purpose of the statute, the unconstitutional from the constitutional; or, if you prefer, that where a statute can not be separated or resolved into its constituent parts without committing judicial legislation, the courts will not, under such circumstances, attempt to hold the statute constitutional, but will declare it unconstitutional and deny the application of a comity rule of the judiciary, which strives to sustain legislation wherever possible. This case, as I say, recognized that where an inhabitant of a State attempted to interfere with the exercise of a general right which did not relate to a Federal election, that he was not guilty of violating this act. But I must draw this conclusion and emphasize it: I do not think the court attempted to decide that if the same acts so attempted under the broad general terms of the law, which the court felt constrained to hold as beyond the authority of Congress, had been attempted or accomplished in a specific general Federal election, that such acts would not have been a violation of the fifteenth amendment to the United States Constitution, obviously a law meeting the facts of such a situation would be constitutional. In Ex parte Virginia (100 U. S. 339, 346), construing the provisions of the fourteenth amendment, it was said:

"'They have reference to actions of the political body denominated a "State," by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws.'

"In view of that interpretation and merely for the purposes of convenience and accuracy, permit me to refer expressly to the amendment:

"'No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law: nor deny to any person within its jurisdiction the equal protection of the laws.'

"Justice Brewer in the Bowman case, referring to the leading case of Ex parte Virginia, supra, gives to the fourteenth amendment, clearly and unequivocally, this interpretation: That no State shall deprive any person—not as a mere abstract entity, but through its legislative, its executive, or its judicial functions—of life, liberty, or property. In other words, the fourteenth amendment to the Constitution of the United States, in so far as it guarantees to the people of this country life, liberty, and property, means that the legislative department of a State shall in no sense encroach upon such common rights; it means that the executive department—that is, any person empowered with the enforcement of legislative acts, be it a governor, sheriff, or police official, acting under the municipal law of a State—shall not deny to any person the rights which the fourteenth amendment pronounces shall be preserved, nor deny to any person the equal protection of the laws of that State.

"The learned justice also quotes from the very important case of United States *v.* Cruikshank (92 U. S. 542, 554). He adopts the statement:

"'The fourteenth amendment prohibits a State from denying to any person within its jurisdiction the equal protection of the laws; but this provision does not, any more than the one which precedes it and which we have just considered, add anything to the rights which one citizen has under the Constitution against another. The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right.'

"The State can deny this right through an executive officer as readily as it can through a legislative or a judicial act. If a State, acting through its highest judicial officers, denies this right, there is a direct appeal, if the record has properly raised the point, to the Supreme Court of the United States. If the legislative department denies the right, we know, of course, how the right is preserved and enforced.

"The mere fact that the Congress of the United States has never affirmatively, so far as I have been able to find, invaded the field, and by appropriate legislation under this constitutional provision sought to restrain the executive officers of the States from denying this right is no reason why Congress should not now take such appropriate action as will tend to protect their and similar rights. Therefore, without citing additional authorities, I unhesitatingly make this deduction:

"Wherever the Constitution has delegated to Congress certain rights and duties which Congress is permitted or bound to enforce and to carry out, the extent to which Congress may go in thus enforcing rights or fulfilling duties within the limitations prescribed by the Constitution is sufficiently great to permit of the exercise of a Federal police power, and the exercise of this Federal police power is neither repugnant to nor superior to the police power of the State. Each is concurrent with the other. Thus, if in the proper use of its taxing power, or in the constitutional regulation of commerce, or in the establishment of war-time rules, it becomes necessary to resort to measures which partake of the nature of or are, in fact, equivalent and similar to the police regulations of a State, Congress has the right to adopt such measures and to enforce them. How appropriately might the quotation from Gibbons *v.* Ogden be paraphrased to fit any of the express powers of Congress? Is it not a logical step to adopt this principle of constitutional law to the fourteenth amendment as to any other provision? If it be so applied, and if the aforementioned opinion be so paraphrased, is it not correct to say, with the great Chief Justice—

"'It is obvious that the Government of the Union, in the exercise of its express powers, that, for example, of providing to all citizens equal protection of its laws, may use means that may also be employed by a State in the exercise of its acknowledged powers.'

"In a word, it has been definitely established that there is a Federal police power; that Congress can invoke this power within the limits and according to the provisions of constitutional limitations; and that Congress having so invoked the power can enforce it to the fullest extent. If the State, in the mind of Congress, denies this right because all legislation assumes the existence of an evil to be corrected, then Congress, having legislatively determined that fact (and the courts will not consider whether Congress was or was not justified, but will assume because of Congress having passed appropriate legislation that the States have denied the rights in question), obviously, Congress possesses the authority under the fourteenth amendment and under the interpretation which the courts have given it to go forward and say that since the States of this country have denied to many people within their borders because of race and nationality the right to be protected in their property, in their lives, and their liberty, and have also denied them the equal protection of the laws, a necessity exists that not only justifies but compels adequate and appropriate legislation to the end that the people of our several States may enjoy and be secure in those rights which the organic law guarantees them.

"We have, as you know, a great many instances where a State takes jurisdiction before the Federal Government and where the Federal Government may have and take concurrent jurisdiction. Those are the cases where the same act is a crime against separate sovereignties. If one government proceeds to punishment before the other, the punishment of the first government is generally pleaded as 'an equitable defense' in criminal law to the imposition of a penalty by the other sovereignty, and I think that would be a case presenting possibly the situation you suggest. If Congress saw fit to pass a law which came within the meaning, as the courts have defined that meaning, of the fourteenth amendment, that then the courts could not conduct an inquiry as to whether Congress was justified in deciding what is generally termed a legislative fact. Congress, as we know, can take affirmative action or not upon many questions within its jurisdiction. I recall, as you will, the law relative to bankruptcy. A few years ago we had no national bankruptcy law, merely the State insolvency laws. The mere fact that Congress sees fit to decide that the time has come, within the life of this country as a sovereign Nation, to determine in favor of the affirmative exercise of a power which it has permitted to lie dormant is not to be questioned after Congress has so acted. Neither is the existence of the power to be questioned, merely because of congressional inaction, default, or neglect.

"The Supreme Court, speaking through Mr. Chief Justice Waite, in the case of the United States against Cruikshank (92 U. S. p. 542), said, addressing himself to a very exhaustive consideration of the fourteenth amendment:

"'The fourteenth amendment prohibits a State from depriving any person of life, liberty, or property without due process of law.'

"And from denying to any person within its jurisdiction the whole protection of the laws.

"'But this adds nothing to the rights of one citizen as against another. It simply furnished an additional guaranty against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society.'

"The duty of protecting all of its citizens in the enjoyment of rights was originally assumed by the States, and it still remains there. Will you please note this:

"'The only obligation resting upon the United States is to see that the States do not deny the right.'

"My conclusion is this: Must the Congress of this country sit supinely by when it knows that a State, either affirmatively or negatively, is denying that right? If the State omits to give or withholds protection through motives of indifference or inability, is the guaranty performed and the duty of the Federal Government discharged? In a word, is the fourteenth amendment meaningless because of State negativity? I hope not, and I think not. The Congress of the United States clearly is charged under the Constitution, as interpreted by the Supreme Court, with the duty of seeing that the States do not neglect this right. Then, if the Congress of the United States decides that the States have, by omission, neglect, in apacity, or local prejudice, if you please, failed to insure and secure to every citizen within those States the full protection of the laws and the right of life, liberty, and property, then does not the obligation arise to protect these rights?

"We are all familiar with that state of affairs where if the Congress of the United States—and it has recently decided it—concludes as a matter of fact that a republican form of government does not exist in a State because the State has not the means or the instrumentalities by which such forms of government are recognized and protected; that it, the Congress of the United States, has the right to go into that State and see that a republican form of government is maintained and preserved. It was done only recently, as you know, in the State of West Virginia, and a committee of the Senate of the United States, merely upon a determination of the legislative fact that a republican form of government did not exist there, invaded the State to see whether the State was properly enforcing its laws under its constitution and the Constitution of the United States.

"If a State omits affirmatively to legislate upon such questions, it has denied this protection by not taking affirmative action; if it takes affirmative action and does not enforce that action, or if it says it will take no action because, within the judgment of the State, no action along those lines should be taken, then I say the Federal Government can say to that particular State, 'You have denied negatively,' 'You have failed to give,' 'You have defaulted,' if I may so phrase it, 'to the citizens of these States the protection that the Constitution of the United States, as interpreted by the Supreme Court, says they are entitled to receive.' Now, I contend that under the general police power, the Federal Government may go in, and, side by side with the States, as it does in bankrupcty, aid the States in securing the protection which for any reason the local governments can not give.

"The Federal Government was given the power to curb the States in these particulars—and the States reserved the correlative right to so 'police' its citizens that in maintaining order it would not deprive any person of life, liberty, or property. And if it fails to preserve these rights—and the Congress concludes that such rights are denied the people and that they are deprived of due process of law, no matter the cause—then are we to be told that these guaranties can not be enforced by appropriate legislation?

"Section 5 of the fourteenth amendment says:

"'The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.'

"This has received special consideration in Logan *v.* United States (144 U. S. 263, 293), where Mr. Justice Gray stated its meaning to be:

"'Every right created by, arising under, or dependent upon the Constitution of the United States may be protected and enforced by Congress by such means and in such manner as Congress, in the exercise of the correlative duty of protection, or of the legislative powers conferred upon it by the Constitution may, in its discretion, deem the most eligible and best adapted to attain its object.'

"There is a limitation, however, in the amendment itself upon the power of Congress. The clause of the amendment under consideration provides that Congress may enforce the provisions of the amendment by 'appropriate legislation,' and the right to judge what is appropriate legislation rests with the lawmaking body of the Government—that is, with Congress.

"Mr. Justice Lamar, in United States *v.* Sanger, said:

"'The provision of the fourteenth amendment authorizing Congress to enforce its guaranties by legislation means such legislation as is necessary to control and counteract State abridgement.'

"The Supreme Court of the United States has held that Congress would have no right to provide for the enforcement of the provisions of this amendment in the following cases:

"'When the State has been guilty of no violation of its provisions; when it has not made or enforced any law abridging the privileges or immunities of citizens of the United States; when no one of its departments has deprived any person of life, liberty, or property without due process of law or denied to any person within its jurisdiction the equal protection of the laws; when, on the contrary, the laws of the State as enacted by its legislative and construed by its judicial and administered by its executive departments recognize and protect the rights of all persons the amendment imposes no duty and confers no power upon Congress.'

"But by implication when a State has been guilty of violating any of the above provisions then Congress may provide for the enforcement of the provisions of the amendment.

"In Ex parte Virginia, supra, Mr. Justice Strong stated the rule to be:

"'Congress is authorized to enforce the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective. Whatever legislation is appropriate—that is, adapted to carry out the objects the amendments have in view—whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power.'

"In McCray *v.* United States (195 U. S. 27) the authorities are reviewed and reference is especially made to Ex parte McCardle (7 Wallace, 506), where the court said:

"'We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.'

"The courts have no right to question the expediency or the reasonableness of legislation. In Treat *v.* White (181 U. S. 264) the court said:

"'The power of Congress in this direction is unlimited. It does not come within the province of this court to consider why agreements to sell shall be subject to the stamp duty, and agreements to buy not. It is enough that Congress, in this legislation, has imposed a stamp duty upon this one and not upon the other.'

"When Congress determines upon the question what its legislative judgment should be, that Congress takes into consideration not the facts which exist in some one State, to the exclusion of facts existing in another State, but that Congress takes into consideration what is the greatest good for the greatest number.

"Congress must be charged sometimes with altruism when it legislates upon any great question; Congress must not be charged with having taken into consideration conditions in one State to the exclusion of conditions in another, because if it did it would be guilty of penalizing a State where, possibly, the legislation would not affect the individuals of that State for the benefit of the greater number of the people of the United States.

"The words 'necessary and proper' have been held as endowing the Federal Government with every authority the exercise of which may in any way assist the Federal Government in effecting any of the purposes the attainment of which is within its constitutional sphere. In United States *v.* Fisher (2 Cranch, 358), decided in 1804, Chief Justice Marshall declared:

"'It would be incorrect and would produce endless difficulties if the opinion should be maintained that no law was authorized which was not indispensably necessary to give effect to a specified power. Where various systems might be adopted for that purpose it might be said with respect to each that it was not necessary, because the end might be obtained by other means. Congress might possess the choice of means which are in fact conducive to the exercise of a power granted by the Constitution.'

"Take the condition that exists in this country to-day. There is not a State—of course, this is a mere truism—that has not a law against murder. Now, in the act which bears the name of your distinguished chairman there are provisions which confer jurisdiction upon the Federal Government to prosecute assaults upon officers engaged in the enforcement of that act. There is a question in the minds of many people whether or not that act should not have conferred upon the Federal Government the right to prosecute cases of murder. It does concede the right to prosecute assaults. Now, I have in mind a case where men living in a certain State shot down, as they claimed in self-defense, the officers of the law who came to search their premises for intoxicating liquor. These men have been tried twice for murder in the State court and the juries have disagreed. The law has not been popular in that State. Now, suppose the condition which exists in the State to which I refer were found to exist in other States of the Union. It is only an easy step to the psychology of our people. We know that the way the people of one State of this Union view a given state of facts is likely to be the view entertained in other sections of the country, unless you should give the facts a political coloring, which this act does not, because it would be based upon the Constitution, and apply to all—red, white, and black—citizen, alien, resident, and inhabitant. Now, in view of the general knowledge of the so-called unpopularity everywhere of this law, Congress could pass a law conferring upon the Federal courts the right to punish murder wherever officers enforcing that law were assaulted and killed.

"If Congress did that, who could question the judgment of Congress? I do not see who could run 'along the highway' and say Congress was not justified in doing this, because in the New England States or in the Southern States they do not shoot down men so engaged. I do not think we should or that we could make it in any sense a sectional question, because we are all the same people; we all entertain the same views of life in the final, ultimate analysis. Our late World War demonstrated that. We forgot our politics; we were American citizens for the once, and we forgot that we had ever been Democrats and Republicans. We met the same situation in the same way. There may be differences depending upon temperament or environment, because, after all, we are initially the products of the conditions that started us, brought us up, and pushed us forward in this great fight in life, but when all of that is ironed out we are the same. So I say that when you find conditions existing in one State you can conclude legislatively as well as actually that if the same 'cause irritant' makes its appearance in the other State you will find the same conditions in its train.

"The fact that such acts carried a penalty might in their deterrent effect prevent just such crimes. If a mob, in defiance of law, destroys property or commits arson, is the taxpayer without remedy because the authorities were ignorant?

"In Crandall *v.* Nevada (6 Wallace, 35) the court discusses and classifies some of the distinctively Federal rights. It is said to be the right of the citizen, protected by implied guaranties of the Constitution, 'to come to the seat of government to assert any claim he may have upon the Government, to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions. He has the right of free access to its seaports, through which all operations of foreign countries are conducted, to the subtreasuries, land offices, and courts of justice in the several States.'

"And in the Slaughterhouse cases (16 Wallace, 36, 79) it is said:

"'Another privilege of a citizen of the United States is to demand the care and protection of the Federal Government over his life, liberty, and property when on the high seas or within the jurisdiction of a foreign Government. Of this there can be no doubt, nor that the right depends upon his character as a citizen of the United States. The right to peacefully assemble and petition for redress of grievances, the privilege of the writ of habeas corpus, are rights of the citizen guaranteed by the Federal Constitution. The right to use the navigable waters of the United States, however they may penetrate the territory of the several States, all rights secured to our citizens by treaties with foreign nations, are dependent upon citizenship of the United States, and not citizenship of a State. One of these privileges is conferred by the very article under consideration. It is said that a citizen of the United States can of his own volition become a citizen of any State of the Union by a bona fide residence therein, with the same rights as other citizens of that State.'

"In Maxwell *v.* Dow (176 U. S. 581) the court in its majority opinion announced that the mere fact that a certain privilege was granted against Federal infringement did not operate to make such privileges distinctively Federal in character. In that case Justice Harlan delivered one of his famous dissenting opinions based upon the proposition that the privileges and immunities enumerated in the first eight amendments of the Constitution belong to every citizen of the United States. However, in the course of the majority opinion delivered by Mr. Justice Peckham the language of the court In re Kemmler (136 U. S. 436, 448) was repeated and approved. It will be observed that the decision turns upon the question whether the trial of a person accused as a criminal by a jury of only 8 persons instead of 12 was an encroachment by the State upon those fundamental rights inhering in citizenship and which the State governments were created to secure. The court said:

"'The fourteenth amendment did not radically change the whole theory of the relations of the State and Federal Governments to each other, and of both Governments to the people. The same person may be at the same time a citizen of the United States and a citizen of a State. Protection to life, liberty, and property rests primarily with the States, and the amendment furnishes an additional guaranty against any encroachment by the States upon those fundamental rights which belong to citizenship and which the State governments were created to secure. The privileges and immunities of citizens of the United States, as distinguished from the privileges and immunities of citizens of the States, are indeed protected by it; but those are privileges and immunities arising out of the nature and essential character of the National Government and granted or secured by the Constitution of the United States.'

"Obviously, if the State by direct legislation abridged any of these rights, the act would encroach on the privileges protected. The State would then positively violate the Federal provisions. But does the State not violate and render meaningless the provisions of the amendment by neglecting to legislate, refusing to enforce its laws, or by allowing its laws and its officials to drift into a condition of utter helplessness and indifference? Are 'citizens' and 'persons' to be thus deprived of life, liberty, and property when the people of the States have clothed the Federal Government with power to see that they, the States, do not deny such rights, and have expressly empowered the Congress and directed it 'to enforce' such commands by appropriate legislation?"

We quote some additional authorities as to the constitutionality of the antilynching bill submitted by Hon. MERRILL MOORES:

"The case of James *v.* Bowman (190 U. S. 127) is not in point as to the proposed antilynching bill, for the reason, in addition to those stated by Colonel Goff, that it concerns a statute based solely on the fifteenth amendment, while the proposed bill is based on the fourteenth amendment, which is totally different in its provisions.

"The fourteenth amendment guarantees that no State 'shall deny to any person within its jurisdiction the equal protection of the laws,' a guaranty equivalent to one that each State shall secure to every person within its jurisdiction the equal protection of the laws.

"The fifteenth amendment is as follows:

"'The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.' To enforce this provision Congress enacted Revised Statutes 5507, to punish 'every person who prevents, hinders, controls, or intimidates another from exercising or in exercising the right of suffrage, to whom that right is guaranteed by the fifteenth amendment to the Constitution of the United States, by bribery or threats,' etc.

"Certain men were indicted under this statute for bribing colored voters of Kentucky not to vote at a congressional election. The court held that under the amendment providing that the right of citizens to vote shall not be denied or abridged on account of race, color, etc., the Congress could not pass a statute punishing election bribery of negroes. It is hardly worth while discussing the propriety of this decision, in view of the fact that it has no bearing at all on the questions at issue.

"The fourteenth amendment forbids the withholding of the equal protection of the law by any State to any person within its jurisdiction. This bill simply provides that the State governments shall treat all persons within their jurisdiction alike in discharging the highest function of government, the protection of life and liberty of the governed.

"The first principle stated in the Declaration of Independence is as follows:

"'We hold these truths to be self-evident: That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.'

"In framing the Constitution, our fathers, recognizing that governments are instituted among men to secure the rights of life, liberty, and the pursuit of happiness, stated in the preamble its purpose to be to form a perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

"With these principles as their purpose, all the State governments were established and the principles are restated in every State constitution.

"The fourteenth amendment is simply declaratory of the principle that a State in which life, liberty, and property are not protected for every person within its boundary does not perform the first and greatest function of government—the protection of the personal rights of the governed. It is for this purpose that all State officers are chosen and paid. It is for this that taxes are collected and the States policed.

"It goes without saying that in a civilized government like ours if any person is assaulted, beaten, maimed, or lynched by a mob, some officer whose sworn duty it is to enforce the laws has been derelict in his duty and has violated his official oath. The often-quoted words of Mr. Justice Matthews in the Yick Wo case are in point as to the moral liability of the State for the dereliction of its officer:

"'Whatever may have been the intent of the ordinances as adopted, they are applied by the public authorities charged with their administration and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secured to the petitioners, as to all other persons, by the broad and benign provisions of the fourteenth amendment to the Constitution of the United States. Though the law itself be fair on its face and impartial in appearance, yet if it is applied and administered by public authority with an evil eye and an unequal hand so as to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the Constitution.' (Yick Wo *v.* Hopkins, 118 U. S. 356, 373.)

"This language has been quoted with approval by the same court in construing a cigarette law of Tennessee unequally enforced. (Austin *v.* Tennessee, 179 U. S. 343, 350.)

"It has also been followed in its reasoning in the Los Angeles Gas Works case. (Dobbins *v.* Los Angeles, 195 U. S. 223, 240.)

"It was again quoted and followed in the Wisconsin Salvation Army case. (Re Garrabad, 84 Wis. 592–593; 36 Amer. St. 952, 953; 19 L. R. A. 858, 864.)

"It was followed again in the trial of Caleb Powers, where, in a community almost equally divided in politics, Powers being on trial on a charge of the murder of a political opponent, no member of the political party with which Powers was identified was drawn on the jury in three successive trials. (Commonwealth *v.* Powers, 139 Fed. 452, 461. See also In re Orozco, 201 Fed. 106, 117.)

"The Supreme Court of the United States has repeatedly stated that the last clause of the first section of the fourteenth amendment guarantees the equal protection of the laws by the States to all persons within their jurisdiction. The common definition of a guaranty is 'an agreement by one person to answer to another for the debt, default, or miscarriage of another.' Mr. Justice Story thus defined it:

"'A guaranty is the collateral undertaking by one person to be answerable for the payment of some debt or the performance of some duty or contract for another person, who stands first bound to pay or perform.' (2 Story, Contracts, 5th ed. 319.)

"Under the Constitution the States, by ratifying the fourteenth amendment, have bound themselves to perform and discharge the duty of affording to all persons within their respective boundaries the equal protection of the laws, and the Federal Government has guaranteed the performance. The duty to perform is a positive, affirmative duty of equal protection. Wherever this duty is not performed, regardless of the excuse, there is a breach by the State of the contract, and the obligation falls on the guarantor, the Federal Government, to assure performance.

"The Supreme Court has laid down the rule of construction as to guaranties that 'the words of the guaranty are to be taken as strongly against him (the guarantor), as the sense will admit.' (Drummond *v.* Prestman, 12 Wheat. 515, 518.) If this is the rule as to the guarantor, it goes without saying that it is also binding on the principal debtor.

"The general rule as to the liability of private corporations for torts committed by agents within the scope of their authority (briefly and well stated in 10 Cyc. 1205, 1222) certainly furnishes an analogy where a constitutional guaranty had been given by State and Nation for performance by the State. As to cases in point there is a paucity of authority, due to the fact that neither State nor Nation may be sued without its consent. There are, however, cases fully in point.

"The State of New York, having constructed or acquired certain canals, consented to be sued as to claims 'for damages sustained from the canals, from their use and management, or arising from the neglect of an officer in charge, or from any accident or other matter connected therewith,' excluding, however, 'claims arising from damages resulting from the navigation of the canals.' In Rexford *v.* State (105 N. Y. 229), Rexford, while navigating a canal boat on the Erie Canal, left his boat at Syracuse to obtain a clearance, and, returning to his boat, was severely injured by the fact that the agents of the State had negligently permitted a ladder to become unsafe. The court held the State liable for the negligence of the officers charged with the duty of keeping the canal and its appurtenances in order.

"For a stronger case in point, see Gibney *v.* State (137 N. Y. 1; 19 L. R. A. 365). See also as to the liability of a State for the negligence of an officer or agent: Green *v.* State (73 Calif. 29); Chapman *v.* State (104 Calif. 690; 43 Amer. St. 158); note to Houston *v.* State (42 L. R. A. 65–69); 36 Cyc. 882, n. 16.

"These cases are all to the effect that where a State consents to be sued in tort it becomes liable as a private corporation for the negligence of an officer or agent as to acts within the line of his duties.

"As to the right of the United States to sue a State or a county there can be no question. (United States *v.* North Carolina, 136 U. S. 211; United States *v.* Texas, 143 U. S. 621; United States *v.* Michigan, 190 U. S. 379; Lincoln County *v.* Luning, 133 U. S. 529.)

"Originally a State might be sued by a citizen of another State. (Chisholm *v.* Georgia, 2 Dall. 419.)

"This decision led to the adoption of the eleventh amendment, which provides:

"'The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.'

"It will be noted that this amendment takes away the right neither of the United States nor of any other State to sue a State, but simply restricts the right of citizens of other States to bring suits.

"As to the constitutionality of statutes imposing a penalty upon counties or municipalities for lynching or mob violence, the following additional authorities are submitted: Dale County *v.* Gunter (46 Ala. 111); De Kalb *v.* Smith (47 Ala. 407); Cantey *v.* Clarendon County (101 S. C. 141); Atchison *v.* Twine (9 Kans. 350); Cherryvale *v.* Hawman (80 Kans. 170; 23 L. R. A. (N. S.) 645); P., C., C. & St. L. Ry. Co. *v.* Chicago (242 Ill. 178; 44 L. R. A. (N. S.) 358; 11 Cyc. 500, 501).

"To summarize the argument it would appear that the United States, by the joint action of the States, has guaranteed that no State shall deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"It further appears that every State maintains a system of policing the State for the protection of life, liberty, and property, and that in certain of the States the equal protection of the law is, and for years has been, denied. There can be no question that the denial to persons of a class of the equal protection of the laws by officers of or under the State charged with their equal enforcement is the act of the State, and that the failure of the State, through its officers, to give the equal protection of its laws to a class must justify the intervention of the United States under the fourteenth amendment to carry out its guaranty of equal protection.

"In bringing this brief reference to authorities to a conclusion it is proper again to refer to two propositions of law laid down by the Supreme Court as to constitutional questions, the first quoted being in the words of Mr. Justice Bradley and the second in those of Mr. Chief Justice Marshall:

"'We hold it to be an incontrovertible principle that the Government of the United States may by means of physical force exercised through its official agents execute on every foot of American soil the powers and functions that belong to it.' (Ex parte Siebold, 100 U. S. 371, 395.)

"'Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adopted to that end, which are not prohibited but consistent with the letter and spirit of the Constitution, are constitutional.'" (McCullough *v.* Maryland, 4 Wheat. 316, 421.)

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., August 9, 1921.

Hon. A. J. VOLSTEAD,
Chairman Committee on the Judiciary,
House of Representatives.

MY DEAR MR. VOLSTEAD: I beg to acknowledge receipt of your letter of the 26th ultimo, transmitting a copy of House Resolution 13, to secure to persons within the jurisdiction of every State the equal protection of the laws and to punish the crime of lynching, and inviting suggestions and recommendations with a view to making the bill more effective or to avoid possible constitutional objections.

While under the statutes governing my office I am not authorized to give an official opinion to your committee relative to the bill, my interest in securing to persons within the jurisdiction of every State the equal protection of the laws, especially with reference to lynching, is so great that I feel warranted in submitting to you as my personal and not official opinion certain thoughts which have occurred to me as the result of a somewhat hasty examination of the bill.

As pointed out by Colonel Goff in his statement before your committee, the first seven sections, providing for the removal of cases under certain conditions to the Federal courts, and providing for the punishment of persons obstructing or resisting officers of the United States, are in effect but elaborations of existing law. They appear to be well drafted and within the competency of Congress to enact.

Considerable discussion has taken place as to the constitutionality of the proposed legislation, it being contended that the fourteenth amendment gave Congress power to legislate so as to prevent a denial of the equal protection of the laws by the States and not as to acts of individuals not clothed with State authority. In support of this proposition the following cases have been cited: United States *v.* Cruikshank (92 U. S. 542); Virginia *v.* Rives (100 U. S. 313); Ex parte Virginia (100 U. S. 339); Civil Rights cases (109 U. S. 3); United States *v.* Harris (106 U. S. 629); James *v.* Bowman (190 U. S. 127); Hodges *v.* United States (203 U. S. 1); United States *v.* Wheeler (254 U. S. 281).

Colonel Goff has very thoroughly gone over this question in his statement before your committee, and I heartily concur in the views he there expressed. It will be observed that in the cases above cited the court holds that the State may act through its legislative, its judicial, or its executive authorities, and the act of any one of these is the act of the State. This is concisely set forth in the opinion of the court in Ex parte Virginia (100 U. S. 339, at 346):

"We have said the prohibitions of the fourteenth amendment are addressed to the States. They are, 'No State shall make or enforce a law which shall abridge the privileges or immunities of citizens of the United States, * * * nor deny to any person within its jurisdiction the equal protection of the laws.' They have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State or of the officers or agents by whom its powers are exerted shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal

protection of the laws, violates the constitutional inhibition, and as he acts in the name and for the State and is clothed with the State's power his act is that of the State. This must be so or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it."

Of course, if the act of one of these agencies of the State is a denial of the equal protection of the laws, since the act of such agent is the act of the State itself, such act is within the prohibition of the fourteenth amendment to the Constitution. The authorities above cited hold that a statute that prohibits the act of an individual, irrespective of any action by the State or its officers, is beyond the power of Congress to enact under this fourteenth amendment. To my mind there can be no doubt that negativity on the part of the State may be, as well as any act of a positive nature by such State, a denial of the equal protection of the laws, and thus be within the prohibition of the fourteenth amendment so as to give Congress power to act with reference to it. That such was in the mind of the court when pronouncing the decisions above cited is clearly shown by the following excerpts from the opinion of the court, speaking through Mr. Justice Bradley, in the Civil Rights cases, supra, at pages 13 and 14:

"In fine, the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation; that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing, or such acts and proceedings as the States may commit or take, and which, by the amendment, they are prohibited from committing or taking. It is not necessary for us to state, if we could, what legislation would be proper for Congress to adopt. It is sufficient for us to examine whether the law in question is of that character.

"An inspection of the law shows that it makes no reference whatever to any supposed or apprehended violation of the fourteenth amendment on the part of the States. It is not predicated on any such view. It proceeds ex directo to declare that certain acts committed by individuals shall be deemed offenses and shall be prosecuted and punished by proceedings in the courts of the United States. It does not profess to be corrective of any constitutional wrong committed by the States; it does not make its operation to depend upon any such wrong committed. It applies equally to cases arising in States which have justest laws respecting the personal rights of citizens, and whose authorities are ever ready to enforce such laws, as to those which arise in States that may have violated the prohibition of the amendment. In other words, it steps into the domain of local jurisprudence and lays down rules for the conduct of individuals in society toward each other, and imposes sanctions for the enforcement of those rules, without referring in any manner to any supposed action of the State or its authorities."

And again, at page 23:

"Many wrongs may be obnoxious to the prohibitions of the fourteenth amendment which are not, in any just sense, incidents or elements of slavery. Such, for example, would be the taking of private property without due process of law; or allowing persons who have committed certain crimes (horse stealing, for example) to be seized and hung by the posse comitatus without regular trial; or denying to any person or class of persons the right to pursue any peaceful avocations allowed to others."

My examination of the proposed legislation causes me to believe that all of its provisions are predicated upon some action—either negative or positive—upon the part of the States and that therefore the same is wholly within the competency of Congress to enact.

Section 10 imposes a penalty upon every county in which an unlawful killing occurs, and section 11 imposes a like penalty on every county through which the victim may be carried before being put to death. While the question whether the United States may penalize an instrumentality of a political subdivision of a State may cause some doubt, it is at least an open one so far as the decisions of the Supreme Court are concerned. There has been conferred on Congress the power by appropriate legislation to enforce the prohibitions of the fourteenth amendment, and the imposition of penalties is a well-established means of enforcing the laws, and is so recognized by numerous decisions of all courts and is no doubt an appropriate method of so enforcing the law. This being true and the States having consented by their adoption of the provisions of the Constitution and its amendments to such enforcement of the law by the Federal Government, it would seem there could be but little question of the power of Congress to provide for such penalties.

Section 12 and section 13 provide for the punishment of State and municipal officers who fail in their duty to prevent lynchings or who suffer persons accused of crime to be taken from their custody for the purpose of lynching. These sections seem to me to strike at the heart of the evil, namely, the failure of State officers to perform their duty in such cases. The fourteenth amendment recognizes as preexisting the right to due process of law and to the equal protection of the law and guaranties against State infringement of those rights. A State officer charged with the protection of those rights who fails or refuses to do all in his power to protect an accused person against mob action denies to such person due process of law and the equal protection of the laws in every sense of the term. The right of Congress to do this is fully sustained by the decision of the court in Ex parte Virginia, supra. (See pp. 346, 347.)

Section 15, providing for the punishment of unlawful acts committed against citizens or a subject of a foreign country, meets a long-standing need which has been expressed by a number of Presidents. In Missouri v. Holland (252 U. S. 416) the court has upheld the power of Congress to enact laws necessary and appropriate to the effectuating of treaties.

I am, in a separate letter, to which is attached a copy of the proposed bill, calling attention to some slight modifications that I am taking the liberty to suggest, most of them being directed to matters of clarity in such proposed legislation.

Yours very truly,

H. M. DAUGHERTY, *Attorney General.*

The committee, in considering the constitutional questions involved, has had the benefit of certain briefs prepared and filed by eminent lawyers.

Mr. Moorfield Storey, of Boston, submitted a brief from which we quote:

THE REMEDIES.

It is clearly idle to hope that the Constitution can be amended so as to increase the powers of Congress in this matter. The States where racial prejudice prevails are too numerous.

The alternative therefore is clear. Either Congress has the power to pass effective legislation against lynching or the United States can not protect its own citizens from murder and their property from destruction at the hands of their fellow citizens who are subject to its jurisdiction. It can impose burdens, but it can not defend rights. It can tax, but it can not save the taxpayer. That lynching is a nation-wide evil, that no action by the States can be expected, and that the evil should be abated for the sake of the Nation quite as much as for the sake of those who suffer by it must be conceded.

To admit that the Nation is powerless to abate such an evil and to protect its own citizens is to admit that our Government is weaker than any other civilized government. This is an admission which we should be ashamed to make.

We should therefore expect to find that the National Legislature has power to end a national abuse in the interest of the Nation. Salus populi suprema est lex is the rule which should control our actions.

There are three sources from which the power to pass this law may be derived.

THE FOURTEENTH AMENDMENT.

The one which is generally considered first in any discussion of the question is the fourteenth amendment of the Constitution, of which the first section reads as follows:

"All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privilege or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The last section of the amendment expressly gives Congress the "power to enforce by appropriate legislation the provisions of this article." This grant of power can not be ignored.

It is not necessary to point out that this amendment was adopted in order to assure to the freedmen the rights of American citizens. The language of the amendment makes them American citizens first, and apparently as a consequence citizens of the State in which they reside. It forbids the abridgment of the rights belonging to "American citizens," and it is evident that importance was attached to their position as citizens of the United States.

The situation which this amendment was intended to meet was a very practical one, and the amendment should receive a construction equally practical, a construction calculated to accomplish its purpose, not to defeat it. The enfranchised negroes were dwelling in communities where they had been held as slaves, and in those communities had been regarded and treated as chattels, not as men. Their elevation to the rank of citizens was regarded with absolute hostility, and it was clear that their rights would not be protected unless they were maintained by the United States. The amendment was passed to secure these rights and to give Congress the power to maintain them. It never was the intention of the people who adopted the amendment that the States so recently in rebellion should be able to nullify the amendment by simple nonaction, and should be able to plead that the persons who trampled on the new citizens were merely private persons for whose acts the State was not responsible.

The rule laid down by Chief Justice Marshall should be applied. When speaking of the Constitution he said:

"This instrument contains an enumeration of powers expressly granted by the people to their Government. It has been said that these powers ought to be construed strictly, but why ought they to be so construed? Is there one instance in the Constitution which gives countenance to this rule? * * * If from the imperfection of human language there should be serious doubts respecting the extent of any given power, it is a well-settled rule that the objects for which it was given, especially when those objects are expressed in the instrument itself, should have great influence in the construction. * * * We know of no rule for construing the extent of such powers other than is given by the language of the instrument, which confers them taken in connection with the purposes for which they are conferred." (Gibbons v. Ogden, 9 Wheaton 187, 188.)

Speaking of the power to regulate commerce, he says, at page 196:

"This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed by the Constitution. * * * The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections are in this as in many other instances, as that for example of declaring war, the sole restraints on which they have relied to secure them from its abuse. They are the restraints on which the people must often rely solely in all representative governments."

Again, at page 204:

"It is obvious that the Government of the Union, in the exercise of its express powers, * * * may use means that may also be employed by a State in the exercise of its powers."

We must inquire what action by the State was contemplated and forbidden. How could the State deprive a person of life? No one could have supposed that these words were intended to forbid a law decreeing the death of an individual or a group of individuals, nor was a law directly taking liberty or property at all probable.

"The denial of rights given by the fourteenth amendment need not be by legislation." (Saunders v. Shaw, 244 U. S. 317, p. 320.)

The judicial power ex vi termini could not act without process of law.

The action forbidden by these words must be the acts of individuals who, whether officers of the State or private persons, would under the laws of any State be criminals if they took either life, liberty, or property without due process of law. Such acts are murder, assault, and robbery or larceny. No words better describing lynching and mob violence can be framed than "taking life, liberty, or property without due process of law." This difficulty was met very early.

In Ex parte Virginia (100 U. S. 339, 346) the Supreme Court, in a unanimous opinion by Mr. Justice Strong, speaking of the prohibitions of the fourteenth amendment, says:

"They have reference to actions of the political body denominated a State, by whatever instruments or in whatever modes that action may be taken. A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. Whoever, by virtue of public position under a State government, deprives another of property, life, or liberty without due process of law, or denies or takes away the equal protection of the laws, violates the constitutional inhibition; and as he acts in the name and for the State and is clothed with the State's power, his act is that of the State. This must be so, or the constitutional prohibition has no meaning. Then the State has clothed one of its agents with power to annul or to evade it.

"But the constitutional amendment was ordained for a purpose. It was to secure equal rights to all persons; and to insure to all persons the enjoyment of such rights power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in this denial of the rights which were intended to be secured."

If the officers and people of a State sit quietly by, year after year let lynchers murder, rob, and destroy and never take any steps to prevent them; if their governors, as have the Governors of Georgia, Mississippi, and other States, declare that they have no power to prevent them; if they never try to exercise such power, if the lynchers are known and never punished but on the other hand praised, is not the State, the body of citizens who elect the legislature, the judges, and all the officers of the State, are not they privy to and responsible for these crimes? If not, how can the State do what the amendment forbids? Well did President Wilson, in his appeal to the people against lynching, say, "It can not live where the community does not countenance it."

Suppose a State were to pass a law providing that its officers should surrender negroes charged with crimes to mobs bent on lynching them, and that no person taking part in lynching a colored man should be prosecuted for any offense, would not such legislation justify action by Congress? What practical difference is there between such a law passed by the legislature and the practice which prevails by common consent?

How little sympathy the community has with any attempt to protect the rights of these citizens may be gathered from the minority report of the House Judiciary Committee on the Dyer bill, which is signed by five members and is very brief. It contains no recognition of the evil, no expression of regret at the outrages which have continued so long, no suggestion that there is any hope of changing these conditions by the action of the States themselves. It simply denies the power of Congress to pass the law, and with a certain naïveté says that this proposed intervention of the Federal Government "would tend to destroy that sense of local responsibility for the protection of person and property and the administration of justice from which sense of local responsibility alone protection and governmental efficiency can be secured among free peoples."

It is almost humorous to think that these gentlemen dread the destruction of a "sense of local responsibility" which has in many years never punished a lyncher.

Coming next to the clause which forbids the State to deny to any person the equal protection of the laws. Can not that denial be made as well by inaction as by action; by omission to act as well as by deed; by gross negligence as well as by misfeasance?

Does not this amendment impose upon the State a duty to protect? Must it not pass the laws which give protection, and must it not see that those laws are enforced? Every civilized community employs policemen to protect its citizens against criminals. If in any State or city the protection of the police is not given to one class of citizens, if those who attack, kill, or rob them are never arrested or punished, if this goes on for years and the community acquiesces, though having the power by changing its officers to afford that protection, is not the class so treated deprived of the protection to which it is entitled—"the equal protection of the laws"?

The Supreme Court has said that an actual discrimination against a negro on account of his race by officers intrusted with the duty of carrying out the law "is as potential in creating a denial of equality of right as a discrimination made by law." (Tarrana *v.* Florida, 188 U. S. 519, at p. 520.)

The sheriff who does not defend the jail against a mob, the officers who do not resist the persons who take a prisoner from their custody, knowing in both cases that he will be lynched, deny him the protection of the law, and, in the words of Justice Strong, their "act is that of the State."

This proposition is clearly sustained by the unanimous opinion of the court, delivered by Mr. Chief Justice White, in Home Telegraph & Telephone Co. *v.* Los Angeles (227 U. S. p. 278).

The headnote contains this statement:

"Under the fourteenth amendment the Federal judicial power can redress the wrong done by a State officer misusing the authority of the State with which he is clothed. Under such circumstances inquiry whether the State has authorized the wrong is irrelevant."

The court distinctly overrules the contention that "the prohibitions and guaranties of the amendment are addressed to and control the States only in their complete governmental capacity," saying, on the contrary, that "the provisions of the amendment, as conclusively fixed by previous decisions, are generic in their terms, are addressed, of course, to the States, but also to every person, whether natural or juridical, who is the repository of State power. By this construction the reach of the amendment is shown to be coextensive with any exercise by a State of power in whatever form exerted."

It further deals with the proposition that "the terms of the fourteenth amendment reach only acts done by State officers which are within the scope of the power conferred by the State," and overrules it, saying, on the contrary:

"Here again the settled construction of the amendment is that it presupposes the possibility of an abuse by a State officer or representative of the powers possessed and deals with such a contingency. It provides, therefore, for a case where one who is in possession of State power uses that power to the doing of the wrongs which the amendment forbids, even although the consummation of the wrong may not be within the powers possessed if the commission of the wrong itself is rendered possible or is efficiently aided by the State authority lodged in the wrongdoer."

Adding:

"The amendment contemplates the possibility of State officers abusing the powers lawfully conferred upon them by doing wrongs prohibited by the amendment."

Apply this language to the question whether "the equal protection of the laws" is denied to the negroes. If the jailer or officer in charge of the victim surrenders him to the lynching mob, and all the officers of the State from the governor down take no steps to insure him against the mob, or to prosecute the lynchers, do not these officers "use their power" to deny the protection of the law? What protects us all but the laws against crime and their enforcement by the proper officers of the law? Refusal to enforce is denial of protection.

The Chief Justice cites from Virginia *v.* Rives (100 U. S. 318):

"It is doubtless true that a State may act through different agencies, either by its legislative, its executive, or its judicial authorities; and the prohibitions of the amendment extend to all action of the State denying equal protection of the laws, whether it be action by one of these agencies or by another."

Assuming that Congress is satisfied that the occasion exists for the exercise of its power to enforce the provisions of the fourteenth amendment by "appropriate legislation," what form would that legislation naturally and reasonably take? It is not possible by any law to force sheriffs and peace officers to resist a mob, grand juries to indict, prosecuting officers to prosecute witnesses to testify, or governors to call out troops. Congress can not force a State and its officers to do their duty.

It would be almost equally impracticable to enforce a law providing for the punishment of State officials who refuse or neglect to do their duty.

The only remedy is for Congress to provide that the officers and courts of the United States shall step into the gap left by the State and its officers and give that protection to which the citizen is entitled and punish all who take from him life, liberty, or property without due process of law. Congress may also, following the analogy of those laws which impose upon a city liability for losses caused by riots, a punishment almost as old as the common law, make the communities which tolerate lynching responsible in damages, and these are the remedies which Congress has deemed appropriate.

The argument under the fourteenth amendment may be stated briefly.

Congress by the express language of the amendment is given power to enforce it.

Whether at any given time the occasion exists for the exercise of that power is a question of fact, and Congress has the right to decide that question. Who but Congress can decide it? No court can try such an issue and decide whether or not Congress ought to legislate. The passage of a law is a decision by Congress that the occasion for legislation exists.

Congress, which has the power to pass appropriate legislation, has the power to decide what legislation is appropriate.

In Virginia *v.* Rives (100 U. S. at p. 318) the court says:

"Congress, by virtue of the fifth section of the fourteenth amendment, may enforce the prohibitions whenever they are disregarded by either the legislative, the executive, or the judicial department of the State. The mode of enforcement is left to its discretion."

In the Cruikshank case (92 U. S. pp. 552, 553) Chief Justice White says:

"The fourteenth amendment prohibits a State from depriving any person of life, liberty, or property without due process of law; but this adds nothing to the rights of one citizen as against another. It simply furnishes an additional guaranty against any encroachment by the States upon the fundamental rights which belong to every citizen as a member of society."

Mr. Justice Bradley, in First Woods Circuit Court Reports, page 315, in the Cruikshank case said:

"It seems to be firmly established by the unanimous opinion of the judges in the above-quoted case that Congress has power to enforce by appropriate legislation every right and privilege given or guaranteed by the Constitution. The method of enforcement, or the legislation appropriate to that end, will depend upon the character of the right conferred. It may be by the establishment of regulations for attaining the object of the right, the imposition of penalties for its violation, or the institution of judicial procedure for its vindication when assailed or when ignored by the State courts, or it may be by all of these together. One method of enforcement may be applicable to one fundamental right and not applicable to another."

In Logan *v.* United States (144 U. S. 263 at p. 293) Mr. Justice Gray, delivering the opinion of the court, said:

"The whole scope and effect of this series of decisions is that, while certain fundamental rights, recognized and declared but not granted or created, in some of the amendments to the Constitution, are thereby guaranteed only against violation or abridgment by the United States, or by the States, as the case may be, and can not therefore be affirmatively enforced by Congress against unlawful acts of individuals; yet that every right created by, arising under, or dependent upon the Constitution of the United States may be protected and enforced by Congress by such means and in such manner as Congress, in the exercise of the correlative duty of protection, or of the legislative powers conferred upon it by the Constitution, may in its discretion deem most eligible and best adapted to attain the object."

On page 294:

"Any government which has power to indict, try, and punish for crime, and to arrest the accused and hold them in safekeeping until trial, must have the power and the duty to protect against unlawful interference its prisoners so held, as well as its executive and judicial officers charged with keeping and trying them."

THE PEACE OF THE UNITED STATES.

Another source of the power to legislate is found in the doctrine that there is a peace of the United States which Congress has the right to maintain.

The doctrine is well stated by Mr. Justice Bradley in Ex parte Siebold (100 U. S. 371, 394):

"Somewhat akin to the argument which has been considered is the objection that the deputy marshals authorized by the act of Congress to be created and to attend the elections are authorized to keep the peace; and that his is a duty which belongs to the State authorities alone. It is argued that the preservation of peace and good order in society is not within the powers confided to the Government of the United States, but belongs exclusively to the States. Here, again, we are met with the theory that the Government of the United States does not rest upon the soil and territory of the country. We think that this theory is founded on an entire misconception of the nature and powers of that Government. We hold it to be an incontrovertible principle that the Government of the United States may, by means of physical force, exercised through its official agents, execute on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its laws, and hence the power to keep the peace to that extent. This power to enforce its laws and to execute its functions in all places does not derogate from the power of the State to execute its laws at the same time and in the same places. The one does not exclude the other, except where both can not be executed at the same time. In that case the words of the Constitution itself show which is to yield. 'This Constitution and all laws which shall be made in pursuance thereof * * * shall be the supreme law of the land.' * * *

"The United States must execute them on the land as well as on the sea on things as well as on persons. And, to do this, it must necessarily have power to command obedience, preserve order, and

keep the peace; and no person or power in this land has the right to resist or question its authority, so long as it keeps within the bounds of its jurisdiction."

Again in Tennessee *v.* Davis (100 U. S. 257, p. 262) the court, speaking through Mr. Justice Strong, said:

"The United States is a Government with authority extending over the whole territory of the Union, acting upon the States and the people of the States. While it is limited in the number of its powers, so far as its sovereignty extends it is supreme. No State government can exclude it from the exercise of any authority conferred upon it by the Constitution; obstruct its authorized officers against its will; or withhold from it for a moment the cognizance of any subject which that instrument has committed to it."

The leading case is In re Neagle (135 U. S.) and the opinion of the court by Mr. Justice Miller with the authorities cited is pertinent.

There Neagle in California had killed a man. He claimed that he was acting as the duly appointed guard of Mr. Justice Field then on his way to hold court, that the man whom he killed was threatening Justice Field's life, and he killed him in the discharge of his duty as guardian to defend the judge. The offense was a common-law offense committed in California, and Neagle was indicted in that State, whose courts were competent to try him. He was taken by habeas corpus issued by the Federal court from the custody of the State officers and discharged, and this action was upheld by the Supreme Court.

If there is a peace of the United States, it exists not only for the Federal officer in the discharge of his duty but for the American citizen who is murdered or robbed in violation of the fundamental rights which are secured to every citizen.

Wells *v.* Nickles (104 U. S. 444) is a case very much in point. The facts are thus stated by Mr. Justice Miller in the Neagle case (135 U. S. p. 65–66):

"That was a case in which a class of men appointed by local land officers, under instructions from the Secretary of the Interior, having found a large quantity of this timber cut down from the forests of the United States and lying where it was cut, seized it. The question of the title to this property coming in controversy between Wells and Nickles, it became essential to inquire into the authority of these timber agents of the Government thus to seize the timber cut by trespassers on its lands.

"The court said: 'The effort we have made to ascertain and fix the authority of these timber agents by any positive provision of law has been unsuccessful.' But the court, notwithstanding there was no special statute for it, held that the Department of the Interior, acting under the idea of protecting from depredation timber on the lands of the Government, had gradually come to assert the right to seize what is cut and taken away from them wherever it can be traced, and in aid of this the registers and receivers of the land office had, by instructions from the Secretary of the Interior, been constituted agents of the United States for these purposes, with power to appoint special agents under themselves. And the court upheld the authority of the Secretary of the Interior to make these rules and regulations for the protection of the public lands."

No one can doubt that Congress could exercise the authority which in that case was conceded to a Cabinet officer. It could pass a law to protect the timber which belongs to the United States and to punish the thief who should steal it. It could do this notwithstanding theft was an offense under the laws of the State where the timber was cut, because the United States has the right to protect its property by its own officers and its own courts. It can not be left to depend on State officers and State courts, who may sympathize with their own fellow citizens against the Government. State courts and their juries could not have been relied on to enforce the fugitive slave law.

Has the United States a right to protect a tree and no right to protect a man? Has it no interest in one-fifth of its people, potential soldiers, actual taxpayers, men and women, the best asset that a nation can have? We should be slow to admit that a tree is more valuable to the United States than an American citizen.

Let us suppose that this question had arisen before the Civil War while these colored citizens were slaves and therefore property, that in building a fort or other public work the Government had contracted with a slave owner to furnish slave labor, that some labor organization anxious to discourage their competition had attacked and killed many of the slaves, as Chinese laborers were attacked years ago at Rock Springs, could not Congress have passed laws to protect the slaves and punish those who attacked them in the Federal courts, though all that was done was criminal under the State laws? Were negroes as slaves entitled to protection which is denied to them as freemen, or would such a law have been sustained only because the attack interfered with work prosecuted by the United States?

Must we admit that property is more sacred in our country than human life; that the United States can protect its officers and not its citizens against murder and robbery; that there is a peace of the United States for the judge or the marshal and none for the private citizen? Under imperial Rome the cry "I am a Roman citizen" was a shield against wrong wherever the eagles of Rome were flying. Shall the cry "I am an American citizen" uttered by an American in Mexico bring all the power of the country to his aid, but uttered in Georgia fall on deaf ears? The answer to this question is in the hands of the Senate.

THE FIFTH AMENDMENT.

But there is yet a third source of power.

Suppose that in order to give Congress a power to protect our citizens which no one could question we should decide to amend our Constitution and should adopt the broad form of the thirteenth amendment:

"Neither slavery nor involuntary servitude * * * shall exist within the United States or any place subject to their jurisdiction."

Could we use better language to effect our purpose than this?

"No person shall be deprived of life, liberty, or property without due process of law."

Those words would assure this fundamental right to every person under the protection of the Constitution.

But those words are already in the Constitution, introduced by the fifth amendment.

It is answered that the first 10 amendments were passed to protect the citizen against abuse by the Federal Government and must be construed merely as limitations and not as grants of power.

It is true that this has been held by the Supreme Court in a series of cases, but that court has frequently overruled its own decisions, and no rule not required by the very words of the instrument can prevail against the demand of 10,000,000 citizens for the protection of their dearest rights.

It is doubtless true that the fear of abuse by the General Government led to the adoption of the 10 amendments, but while the first in terms limits the power of Congress, the fifth contains no such language and is rather an assertion of fundamental rights belonging to every citizen of the new Nation. There was no reason why these should be protected against the Federal Government and be left at the mercy of the States. A fear led the people to legislate, but their legislation must be interpreted by its words. The courts have again and again refused to interpret an act by its purpose, as disclosed by words used in debate when it was passed, and have insisted that its meaning is to be found in its language—"within the four corners of the instrument."

If we are going to interpret the language of an instrument by the purposes of those who framed it, let us remember for what the American Revolution was fought and our Government was founded. In England, from which we desired to be separated, it has been well said that King, Lords, Commons, and all the powers of the State existed to get 12 men into the jury box; in other words, to make sure that no man was deprived of life, liberty, or property without due process of law. Our fathers, who resisted what they considered the "tyranny" of England, who in their Declaration of Independence recited the inalienable rights which they fought to secure, and who framed the Constitution in order to establish a government under which those rights would be safe, certainly did not intend that their Constitution should be interpreted so as to take from their Government the power to protect its own citizens in the enjoyment of those rights.

The people who after the Civil War made their colored fellow men their fellow citizens, and passed the thirteenth, fourteenth, and fifteenth amendments to secure their rights as citizens against hostile action by their former masters, never intended that they should be left to depend upon those masters for protection, and therefore gave Congress power to enforce the amendments.

Take the Declaration, the Constitution, and the amendments together, one purpose runs through them all, and if the purpose governs the language must be construed to carry it out. We ask that a rule of interpretation be applied which was announced by Mr. Justice Story in Prigg *v.* Commonwealth of Pennsylvania (16 Peters, 417, at 421):

"How, then, are we to interpret the language of the clause? The true answer is, In such a manner as, consistently with the words, shall fully and completely effectuate the whole objects of it. If by one mode of interpretation the right must become shadowy and unsubstantial and without any remedial power adequate to the end, and by another mode it will attain its just end and secure its manifest purpose, it would seem upon principles of reasoning absolutely irresistible that the latter ought to prevail. No court of justice can be authorized so to construe any clause of the Constitution as to defeat its obvious ends when another construction equally accordant with the words and sense thereof will enforce and protect them."

The sound rule is that the intention must be found in the words of the instrument. The fifth amendment contains not a word which makes its language merely a limitation in the power of the Federal Government. It declares in the broadest terms that under the Constitution "No person shall be deprived of life, liberty, or property without due process of law." It is a statement of fundamental rights belonging to every person under our flag and an assurance to those who would become citizens. Its language is clear and should be given full effect.

If, on the other hand, the purpose of those who framed and adopted the amendment is to prevent, can anyone doubt that the Dyer bill carries out the purpose of the fourteenth amendment?

But it is said that Congress is not given power to enforce the fundamental rights of our citizens. It is well settled that an express grant of power is not needed.

Mr. Justice Bradley, in First Woods Circuit Court Reports, page 314, in dealing with the Cruikshank case, said:

"It is undoubtedly a sound proposition that whenever a right is guaranteed by the Constitution of the United States Congress has the power to provide for its enforcement, either by implication arising from the correlative duty of Government to protect wherever a right to the citizen is conferred or under the general power (contained in Art. I, sec. 8, par. 18) 'to make all laws necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any department or officer thereof.'"

In Strauder *v.* West Virginia (100 U. S. 310, 311) the language is:

"A right or an immunity, whether created by the Constitution or only guaranteed by it, even without any express delegation of power, may be protected by Congress."

So in United States *v.* Reese (92 U. S. 214) it was said by the Chief Justice:

"Rights and immunities created by or dependent upon the Constitution of the United States can be protected by Congress. The form and manner of the protection may be such as Congress in the legitimate exercise of its legislative discretion shall provide. These may be varied to meet the necessities of the particular right to be protected."

The citizen of the United States is entitled to protection from the Government to which he owes allegiance. The two are inseparable. The essential rights of the citizen, assured by the Constitution, must be supported by the Government which the Constitution created to do the Nation's work and to enforce and insure the rights of its citizens.

THE CASES RELIED ON BY THE OPPONENTS OF THE BILL.

Let us now consider the language of the Supreme Court in the cases which are relied upon to defeat this enactment. They are gathered in the case of James *v.* Bowman (190 U. S., p. 136 et seq.). Ex parte Virginia has been discussed already.

In United States *v.* Cruikshank (92 U. S. 542 at p. 553) the court says:

"The equality of the rights of citizens is a principle of republicanism. Every republican government is in duty bound to protect all its citizens in the enjoyment of this principle, if within its power. That duty was originally assumed by the States, and it still remains there. The only obligation resting upon the United States is to see that the States do not deny the right. This the amendment guarantees, but no more. The power of the National Government is limited to the enforcement of this guaranty."

This recognizes the right of Congress to act when the States "deny the right."

In the Civil Rights cases (109 U. S. 3, at p. 13):

"Until some State law has been passed or some State action through its officers or agents has been taken adverse to the rights of citizens sought to be protected by the fourteenth amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation, can be called into activity, for the prohibitions of the amendment are against State laws and acts done under State authority.

Of course, legislation may and should be provided in advance to meet the exigency when it arises, but it should be adapted to the mischief and wrong which the amendment was intended to provide against, and that is State laws or State action of some kind adverse to the rights of the citizen secured by the amendment. * * * The legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights of the citizen, but corrective legislation; that is, such as may be necessary and proper for counteracting such laws as the State may adopt or enforce, and which by the amendment they are prohibited from making or enforcing."

Again this recognizes that Congress may act when some State action through its officers or agents has been taken adverse to the rights to the citizen.

Decided by a divided court and dealing with "civil rights," so called, not fundamental right like the right to life and liberty and due process of law, the authority of this case is weakened. The statement that "the prohibitions of the amendment are against State laws and acts done under State authority" is overruled by Home Insurance Co. *v.* Los Angeles (supra).

This is true also of the statement that the legislation which Congress may adopt is only such as may be proper "for counteracting such laws as the States may adopt or enforce."

"The denial of the rights given by the fourteenth amendment need not be by legislation." (Mr. Justice Holmes, in Saunders *v.* Shaw, supra.)

United States *v.* Harris (106 U. S. 629–639):

"When the State has been guilty of no violation of its provisions; when it has not made or enforced any law abridging the privileges or immunities of citizens of the United States; when no one of its departments has deprived any person of life, liberty, or property without due process of law or denied to any person within its jurisdiction the equal protection of the laws; when, on the contrary, the laws of the State, as enacted by its legislative and construed by its judicial and administered by its executive departments, recognize and protect the rights of all persons, the amendment imposes no duty and confers no power upon Congress."

But where these conditions do not exist Congress must act.

Ex parte Virginia recognizes the officers or agents by whom the powers of the State are exercised as the State, and provides that they shall not deny to any person within its jurisdiction the equal protection of the laws.

United States *v.* Cruikshank holds that the obligation which rests on the United States is to see that the States do not deny the right of the citizens to the enjoyment of fundamental rights, that the equality of the rights of citizens is a principle of republicanism, that every part of the Government is bound to protect its citizens in these rights, and that the power of the National Government extends to the enforcement of this guaranty.

In the Civil Rights cases the court recognizes the fact that legislation may and should be provided in advance to meet the exigency when it arises, but it should be adapted to the mischief or wrong which it was intended to provide against; that is, State laws or State action of some kind adverse to the rights of the citizens secured by the amendment.

United States *v.* Harris holds that the Congress can not act when no one of the departments of the State has denied to any person within its jurisdiction the equal protection of the laws, but where such denial has taken place it can act.

All these cases recognize that conditions may arise which will render action by Congress necessary to enforce the guaranty of the fourteenth amendment.

To hold otherwise is to strike out entirely the grant of power in the amendment itself.

We have in hundreds of cases the executive officers of the State, the persons who are in possession of suspected persons and charged with the duty of securing for them due process of law, surrendering to the mob these persons, making no effort to hold the jail against attack or to defend the prisoners from being taken out of their custody, although it must be perfectly apparent to them that the purposes of the mob is to lynch the prisoner without due process of law. These officers are the agents of the State by which its power is exercised, and by their acts toward these accused persons and the mob they deny their prisoners the equal protection of the law, and when their action is ratified by their higher officers and by all the people of the State, it is clear that the State has denied to these citizens the equal protection of the laws.

Unless Congress has power to deal with this situation, if it can not remedy the abuses which have gone unchecked for a generation and more, the manifest intent of the fourteenth amendment is defeated entirely, and by refusing to pass this law either as it stands, or amended if amendment is needed, Congress says to the colored people of this country, "We are powerless to aid you and can hold out no hope that we can ever help you. Alone of all the citizens of the United States, you may be deprived of life, liberty, or property whenever a mob of white men chooses to murder or rob you." Should the Constitution of the United States be so interpreted as to justify this conclusion?

The Supreme Court has never sustained such an interpretation, and in my judgment never will.

It would seem clear in any event that Congress should not refuse to do its duty because of the fear that the Supreme Court might not agree with it as to the necessity and legality of the act which the House of Representatives has passed. The distinction between the cases which have hitherto been presented to the court and this case is very clear, and if Congress errs the Supreme Court will have the power to correct the error, but if Congress refuses to act it is responsible for the continuance of the infamous practice which the bill is framed to stop.

MOORFIELD STOREY.

The following is a brief prepared by Mr. Herbert K. Stockton, of New York, and submitted to Senator BORAH, chairman of the subcommittee having the bill under consideration:

BRIEF OF HERBERT K. STOCKTON ON THE DYER ANTILYNCHING BILL.

NEW YORK, *June 5, 1922.*

Hon. WM. E. BORAH,
United States Senate, Washington, D. C.

MY DEAR SENATOR BORAH: I have studied with the keenest interest the Dyer bill (H. R. 13), the decision to which you directed me in your letter of May 12 and other decisions of the Supreme Court, as well as Mr. Moorfield Storey's brief in support of the bill.

I have come to the conclusion that the Dyer bill is probably constitutional, and I will state briefly why I think so, as my reasons bear a somewhat different emphasis from Mr. Storey's; and I will also state why I think the bill should be reported out (with slightly changed wording) and passed, even though you may feel that its constitutionality is not a matter of certainty.

In view of the many judicial interpretations the Constitution and its amendments have received, it may be well to begin by clearing away certain lines of decisions which might at first sight be thought fatal to the proposed law, but which I think can be shown to be irrelevant. It must first be observed that—

(I) The Dyer bill rests, or should rest, squarely and solely on a single clause of section 1 of the fourteenth amendment of the Constitution, which reads: "Nor shall any State * * * deny to any person within its jurisdiction the equal protection of the laws."

I hope to show later that the proposed law is within the scope of this provision and its supplementary section 5, which empowers the Congress to enforce the provision quoted by appropriate legislation. Meanwhile it helps clear the issue to note that—

(*a*) The Dyer bill does not invoke the rights of the citizens of the United States as distinct from the citizen of the individual State.

Therefore the line of decisions culminating in the Bisbee deportation cases, United States *v.* Wheeler (254 U. S. 281), has no application. It would be futile, it seems to me, to base an antilynching law on the constitutional rights of the citizen of the United States in view of that decision. Though not appearing in the statement of facts, I am told the county authorities were part of the armed mob which seized the United States citizen in question, because they were members of the I. W. W., locked them in box cars, and ran them out of Arizona into New Mexico. Mr. Chief Justice White, after stating that the court below had quashed the indictment on the ground that no power had been delegated by the Constitution to the United States to forbid and punish the wrongful acts complained of, as the right to do so was exclusively within the authority reserved by the instrument to the several States, cited Corfield *v.* Coryell (4 Wash. C. C. 371); Slaughterhouse cases (16 Wall. 36); Paul *v.* Virginia (8 Wall. 168); Ward *v.* Maryland (12 Wall. 418), and on the strength of these cases affirmed the judgment of the court below, observing at page 298:

"* * * No basis is afforded for contending that a wrongful prevention by an individual of the enjoyment by a citizen of one State in another of rights possessed in that State by its own citizens was a violation of a right afforded by the Constitution. This is the necessary result of article 4, section 2, which reserves to the several States authority over the subject, limited by the restriction against State discriminatory action, hence excluding Federal authority except where invoked to enforce the limitation, which is not here the case. * * * A conclusion expressly sustained by the ruling in United States *v.* Harris (106 U. S. 629, 645), to the effect that the second section of article 4, like the fourteenth amendment, is directed alone against State action."

See also United States *v.* Harris (106 U. S. 629); James *v.* Bowman (190 U. S. 127).

It is to be noted from this quotation and from these cases (1) that in United States *v.* Wheeler the Federal authority to enforce the limitation on the States (e. g., against denying equal protection) was not invoked as it is invoked by the Dyer bill, and (2) that the Dyer bill, to be constitutional, must be shown to be "directed alone against State action," as I hope to show that it is directed. By the same course of reasoning we must also put aside such cases as Logan *v.* United States (144 U. S. 263), where lynchers of a United States marshal's prisoners were held to be subject to Federal indictment. That case involved the rights of a citizen of the United States, and this fact gave the Federal Government power to act directly upon individuals as distinguished from the State.

(*b*) The Dyer bill does not invoke the power of the United States to enforce the thirteenth amendment, which prohibits slavery and involuntary servitude.

Accordingly, we can eliminate such cases as Hodges *v.* United States (203 U. S. 1), where it was held that the Federal Government could not by legislation act against persons intimidating negroes from working for wages. This decision was placed on the ground that inability to contract was not an essential element of slavery. Also we can disregard the Slaughterhouse cases and the Civil Rights cases (109 U. S. 3), in so far as they deal with the thirteenth amendment. On the authority of Hodges *v.* United States, the Supreme Court, in United States *v.* Powell, defeated an attempt of Congress to deal with individual lynchers. It is to be noted, however, that the indictment of the lynchers in the Federal court was under sections 5508, 5509, Revised Statutes, prohibiting conspiracy to injure a citizen in his enjoyment of rights secured to him by the Constitution. The court in the Hodges case said, by Mr. Justice Brewer (p. 14):

"That prior to the three post bellum amendments to the Constitution the National Government had no jurisdiction over a wrong like that charged in this indictment is conceded; that the fourteenth and fifteenth amendments do not justify the legislation is also beyond dispute, for they, as repeatedly held, are restrictions upon State action, and no action on the part of the State is complained of."

We are thus brought squarely to the question, Do the provisions of the Dyer bill aim to reach the lynching evil by acting on individuals or on States?

(II) The proposed law constitutes appropriate Federal action under the fourteenth amendment to prevent the individual State from denying to persons within its jurisdiction the equal protection of its laws.

We find the solid ground of fact under our feet at once when we regard the proposed law from this angle, for the States in fact do not give equal protection.

You know and I know, everybody, even the individual members of the Supreme Court know, that the victims of lynching mobs do not get the equal protection of the State's laws, that State and county officials do not try to prevent this crime as they try to prevent other crimes, that they do not try to punish this crime as they try to punish other crimes. This is susceptible of overwhelmingly convincing demonstration. And it is of the greatest importance, in my estimation, that a strong record, showing in graphic detail the unequal protection afforded the victims of lynching mobs, should be made before the committee which has the bill under consideration, or in whatever place and manner is appropriate, so that this record can be brought before the Supreme Court when it passes on the constitutionality of the law.

It is worth noting in passing that it is in accord with the fundamental purpose of this amendment for the Federal Government to take action to insure the negroes particularly equal protection. Their plight was the cause of the amendment being adopted; their plight now is the occasion of this legislation.

But is such inequality as the negroes suffer in connection with lynchings the denial of equal protection by the States which the Constitution prohibits? To anticipate such an objection we should next ob-

serve that inequality in administration is a denial of equal protection of the laws.

It hardly seems possible to make any definition which more exactly fits the existing conditions with respect to lynchings than the constitutional phrase "deny the equal protection of the laws." It is clear that this must not be taken to mean only the passage of discriminating statutes or ordinances. The language of the provision we rely on is sharply distinct from the language of the preceding provision against discriminating legislation, which is that "no State shall make or enforce any law which shall abridge the privileges or immunities," etc.; not to deny that equal protection of laws imports not only an obligation to make no laws which discriminate but equally an obligation to enforce all State laws in existence, so that all persons within the jurisdiction of the State enjoy equal protection from them. But the Supreme Court has said this very exactly:

"The denial of rights given by the fourteenth amendment need not be by legislation." (Saunders *v.* Shaw, 244 U. S. 317, p. 320).

So, in Tarrance *v.* Florida (188 U. S. 519), Mr. Justice Brewer said, page 520 (the italics are mine):

"The contention of plaintiffs in error is that they were denied the equal protection of the laws by reason of an actual discrimination against their race. *The law of the State is not challenged but its administration is complained of.* As said by their counsel:

"'We do not contend that the colored men are discriminated against by any law of the State in the selection of names for jury duty, nor do we contend that a negro being tried for a criminal offense is entitled to a jury composed wholly or in part of members of his race, but we do claim that when a negro is tried for a criminal offense he is entitled to a jury selected without any discrimination against his race on account of race, color, or previous condition of servitude; and when this is not the case he is denied the equal protection of the laws as guaranteed by the fourteenth amendment to the Constitution of the United States.'

"*Such an actual discrimination is as potential in creating a denial of equality of rights as a discrimination made by law.* But such an actual discrimination is not presumed. It must be proved or admitted.

Again, in Yick Wo *v.* Hopkins (118 U. S. 356), which seems to me a decision helpful to the Dyer bill, plaintiff in error (petitioner for writ of habeas corpus below) maintained that the ordinance under which he was imprisoned was unconstitutional. The ordinance made it unlawful to maintain laundries under certain circumstances "without having first obtained the consent of the board of supervisors." The opinion of the court below (quoted in the statement of facts) contains the following significant declaration (at pp. 362 and 363):

"If the facts appearing on the face of the ordinance, on the petition and return, and admitted in the case, and shown by the notorious public and municipal history of the times, indicate a purpose to drive out the Chinese laundrymen and not merely to regulate the business for the public safety, does it not disclose a case of violation of the provisions of the fourteenth amendment to the National Constitution * * *? That it does mean prohibition, as to the Chinese, it seems to us must be apparent to every citizen of San Francisco who has been here long enough to be familiar with the cause of an active and aggressive branch of public opinion and of public notorious events. Can a court be blind to what must necessarily be known to every intelligent person in the State?"

Mr. Justice Matthews, in delivering the opinion of the court, said (pp. 373 and 374) (italics mine):

"* * * The facts shown establish an administration directed so exclusively against a particular class of persons as to warrant and require the conclusion that, whatever may have been the intent of the ordinances as adopted, *they are applied by the public authorities charged with their administration, and thus representing the State itself, with a mind so unequal and oppressive as to amount to a practical denial by the State of that equal protection of the laws which is secured to the petitioners as to all other persons, by the broad and benign provisions of the fourteenth amendment to the Constitution of the United States.* Though the law itself be fair on its face and impartial in appearance, *yet if it is applied and administered by public authority with an evil eye and an unequal hand,* so as practically to make unjust and illegal discriminating between persons in similar circumstances, material to their rights, *the denial of equal rights is still within the prohibition of the Constitution.* This principle of interpretation has been sanctioned by this court in Henderson *v.* Mayor of New York (92 U. S. 259); Chy Ling *v.* Freeman (92 U. S. 275); Ex parte Virginia (100 U. S. 339); Neal *v.* Delaware (103 U. S. 370); and Som Hing *v.* Crowley (113 U. S. 702).

* * * * * * *

"The fact of this discrimination is admitted. No reason for it is shown, and the conclusion can not be resisted that no reason for it exists except hostility to the race and nationality to which the petitioners belong, and which in the eye of the law is not justified. The discrimination is therefore illegal, and the public administration which enforces it is a denial of the equal protection of the laws and a violation of the fourteenth amendment of the Constitution."

I believe that the Supreme Court will come to adopt the reasoning ably expressed by Krekel, D. J., in his charge to the jury in United States *v.* Blackburn (Fed. Cas. No. 14603):

"By the equal protection of the laws spoken of in the indictment is meant that the ordinary means and appliances which the law has provided shall be used and put in operation in all cases of violation of law. Hence if the outrages and crimes shown to have been committed in the case before you were well known to the community at large, and that community and the officers of the law willfully failed to employ the means provided by law to ferret out and bring to trial the offenders because of the victims being colored, it is a depriving them of the equal protection of the law."

Having established that in fact the victims of the lynchings, generally negroes, are being denied the equal protection of the laws by the States, in the sense contemplated by the fourteenth amendment, we next come to the question whether the proposed law is "appropriate legislation" to enforce the prohibition which the Constitution has declared against such denial. We find it settled law that in forcing the State to afford the equal protection of the laws the Federal Government can act directly upon such individuals as are the agents of the State, and whose act or neglect constitutes the denial by the State of the equal protection.

This was strikingly exemplified in Ex parte Virginia (100 U. S. 339), where the petition of J. D. Coles, a county judge of Virginia, for writ of habeas corpus was denied and the act under which he was indicted for excluding negroes from his jury list was found constitutional. The act provided that no citizen otherwise qualified should be disqualified for jury service on account of race, color, or previous condition of servitude, and that any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than $5,000.

Mr. Justice Strong says, on page 345, that in Strauder *v.* West Virginia (100 U. S. 303):

"We held that immunity from any such discrimination is one of the equal rights of all persons, and that any withholding it by a State is a denial of the equal protection of the laws within the meaning of the amendment."

The court says further (p. 345) of the fifth section of the amendment:

"It is not said that the judicial power of the General Government shall extend to enforcing the prohibitions and to protecting the rights and immunities granted. It is not said that branch of the Government shall be authorized to declare void any action of a State in violation of the prohibition. It is the powers of Congress which have been enlarged. Congress is authorized to enforce the prohibition by appropriate legislation. * * * Whatever legislation is appropriate—that is, adapted to carry out the objects the amendments have in view—whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power.

* * * * * * *

"It is said the selection of jurors for her courts and the administration of her laws belong to each State; that they are her rights. * * * But in exercising her rights, a State can not disregard the limitations which the Federal Constitution has applied to her power. * * * Nor can she deny to the General Government the right to exercise all its granted powers though they may interfere with the full enjoyment of rights she would have if those powers had not thus been granted. * * *

"We have said the prohibitions of the fourteenth amendment are addressed to the States. * * * A State acts by its legislative, its executive, or its judicial authorities. It can act in no other way. The constitutional provision, therefore, must mean that no agency of the State, or of the officers or agents by whom its powers are exerted, shall deny to any person within its jurisdiction the equal protection of the laws. * * * Power was given to Congress to enforce its provisions by appropriate legislation. Such legislation must act upon persons, not upon the abstract thing denominated a State, but upon the persons who are the agents of the State in the denial of the rights which were intended to be secured. Such is the act of March 1, 1875, and we think it was fully authorized by the Constitution."

As lately as 1912 in Home Telephone & Telegraph Co. *v.* Los Angeles (227 U. S. 278), Mr. Chief Justice White said, at pages 286 and 287:

"* * * The provisions of the (fourteenth) amendment as conclusively fixed by previous decisions are generic in their terms, are addressed, of course, to the States, but also to every person whether natural or judicial who is the repository of State power.

"* * * The settled construction of the amendment is that it presupposes the possibility of an abuse by a State officer or representative of the powers possessed and deals with such a contingency."

And at page 296:

"The immediate and efficient Federal right to enforce the contract clause of the Constitution as against those who violate or attempt to violate its prohibition, which has always been exerted without question, is but typical of the power which exists to enforce the guaranties of the fourteenth amendment."

The provisions of the Dyer bill are within the scope of these decisions.

The bill is entitled "An act to assure to persons within the jurisdiction of every State the equal protection of the laws."

The definition placed on the lynching mob is an assemblage which is usurping the State's prerogative to prevent and punish crime. I suggest here the alteration of line 5, page 2, "to the citizens of the United States by its Constitution" to read "to persons within the jurisdictions of the several States, or to citizens of the United States, by the Constitution of the United States," this in order to make it clear that the bill is resting on the principle of equal protection and not on the rights of United States citizens.

Section 2 creates a reasonable presumption of denial of equal protection from the State's failure, neglect, or refusal to "provide and maintain protection to the life of any person within its jurisdiction against a mob"; the presumption does not arise merely from failure actually to prevent or punish the taking of life, which might be held unreasonable, but from failure to provide and maintain protection. It is easy to show that the States are providing and maintaining this within reasonable human limits, except as to lynching.

Section 3 acts upon the State or municipal officer in the same way that the statute declared constitutional in Ex parte Virginia acted on the county judge. The officer is held because through him the State fails, neglects, or refuses to make all reasonable efforts to prevent or punish homicide when committed under certain circumstances, thereby denying the equal protection of the laws to the victim slain under those circumstances.

There is perhaps more question as to the provision against "those who so conspire, combine, or confederate with such officer" (lines 10 to 12, p. 3), but they are conspiring with the State itself to deny the equal protection of its laws. It would be highly desirable to have such a provision sustained by the Supreme Court; if it should not be, this, under section 8, would not invalidate any other provision of the law.

Section 4, giving the Federal court jurisdiction to prosecute in case of a refusal, failure, or inability on the part of State agencies to prosecute, constituting a denial of equal protection, should be held constitutional under the opinion of Mr. Justice Strong in Virginia *v.* Rives (100 U. S. 313, at 318) [italics mine]:

"Congress by virtue of the fifth section of the fourteenth amendment may enforce the prohibitions wherever they are disregarded by either the legislative, the executive, or the judicial department of the State. The mode of enforcement is left to its discretion. *It may secure the right—that is, enforce its recognition—by removing the case from a State court in which it is denied into a Federal court where it will be acknowledged.* Of this there can be no reasonable doubt. Removal of cases from State courts into courts of the United States has been an acknowledged mode of protecting rights ever since the foundation of the Government. Its constitutionality has never been seriously doubted."

Section 5 certainly is designed to act upon the State and not upon individuals in the traditional way of imposing a fine on the municipal body. If it be said that the power to tax the State subdivision is the power to destroy, the answer must be that Congress is authorized by the Constitution of the United States to go to such stern measures if they are necessary to prevent the denial to a man of the equal protection of the laws.

I suggest changing "should" to "shall" in line 13, page 4.

Section 6 can not be complained of if the preceding sections are approved.

Section 7 appeals to the Federal authority derived from treaties. Sections 8 and 9 are unexceptionable.

Now, sir, I urge upon you the conclusion that you should not refuse to force this bill out of committee and urge its passage with all the power at your command merely because neither you nor I can guarantee that the Supreme Court is going to take the view of this bill that I have set forth above. The bill is very ably drawn. It is probably the best bill that can be framed under the peculiarly artificial restrictions of our Constitution. It ought to be held constitutional by the Supreme Court. I think it is entirely true to say that the court can hold the bill constitutional on sound reasoning if it wants to. This is a case, therefore, where the problem ought to be put squarely up to the court; it is not a case of passing the responsibility to the court because the legislature does not want to incur the popular odium of refusing the remedial statute.

But look at the matter from a broader point of view. Suppose the constitutionality of the act doubtful. The evil is rampant, it is hellish in particular instances, it is dangerous to the Nation in its increasing threats of race war and mob rule. To cure such a cruel cancer in our body politic every curative force should be set in motion. Even if the court should make vain your efforts, it is tremendously important that the most representative body in the world should go on record as opposing lynching and desiring to stamp it out. At least the lyncher will no longer be able to say that the toleration he and his neighbors feel for his bloody sport exists also in a Congress which raises no protesting voice. We need not deceive ourselves that this law, even if upheld to the last comma and enforced fearlessly, is going of itself to do away with lynching. No law perfectly fulfills its object until the public sentiment behind it renders it practically superfluous. The necessary change of public opinion must perhaps be effected by publicity, education, example; possibly by the removal of such fear as may beset the whites through agencies such as a State constabulary to insure against crimes in sparsely settled districts by blacks against whites as well as by whites against blacks; but those are other questions. The first step, the step which we are looking now to you to take, is to report out the Dyer bill and to get it passed by the Senate.

Very respectfully,

HERBERT K. STOCKTON.

The committee has devoted much time and earnest thought to the consideration of this bill and has reached the conclusion that as amended the bill is constitutional and should pass. That conclusion is reached by different processes of reasoning and by reliance on different provisions of the Constitution; but whatever process of reasoning is adopted or whatever provisions of the Constitution are relied on, we hold that the proposed legislation is "appropriate legislation" to cure or prevent the evil of lynching wherever in the United States and subject to the jurisdiction thereof that evil exists or is committed.

White or black, "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States," and no State may by affirmative legislative, judicial, or executive action, or by failure, neglect, or refusal to act, deprive any person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of the laws.

A careful and dispassionate study of the provisions of this bill as amended will, the committee thinks, convince Senators that it is "appropriate legislation," within the competency of Congress to enact, to safeguard and protect those rights to life, liberty, and property which are guaranteed by the Constitution of the United States.

The proposed legislation is not, and should not be considered, in any sense sectional. The evil it is designed to cure is not confined to any particular section or State, north or south, east or west. This monstrous evil, which is a disgrace to the Nation, we should strive to wipe out by a firm and just exercise of every legitimate power conferred upon and residing in the Federal Government.

The proposed legislation is not an invasion or subversion of the rights of the States, nor is it designed to relieve the States from the performance of their duty to secure to all persons within their several jurisdictions equal protection of the laws; on the contrary, the proposed legislation is in aid of the several States and will be impartially administered by the people of the several States.

It is sincerely hoped and confidently believed that the early passage of this bill as amended will have a salutary effect and go far toward insuring that "equal protection of the laws," State and Federal, to which "all persons born or naturalized in the United States and subject to the jurisdiction thereof" are entitled.

American citizenship is indeed a *badge of honor;* it should be, and this bill seeks to make it, a *shield of protection* to every American citizen, man, woman, and child, native and naturalized, who stands on American soil, hedged round and guarded, as they are, by the Constitution of the United States.

D. C. DARROCH.

Mr. CAMERON, from the Committee on Military Affairs, to which was referred the bill (S. 2946) for the relief of D. C. Darroch, reported it without amendment and submitted a report (No. 838) thereon.

OFFICER IN CHARGE OF PUBLIC BUILDINGS AND GROUNDS.

Mr. WADSWORTH introduced a bill (S. 3873) fixing the rank of the officer of the United States Army in charge of public buildings and grounds, which was read twice by its title and referred to the Committee on Military Affairs.

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

The PRESIDENT pro tempore. The Secretary will state the pending question.

The READING CLERK. The pending question is on the amendment of the committee as modified, which is to strike out paragraph 1108 and to insert in lieu thereof:

PAR. 1108. Woven fabrics, weighing not more than four ounces per square yard, wholly or in chief value of wool, valued at not more than 80 cents per pound, 40 cents per pound and 50 per cent ad valorem; valued at more than 80 cents per pound, 49 cents per pound and 50 per cent ad valorem: *Provided,* That if the warp of any of the foregoing is wholly of cotton or other vegetable fiber, the duty shall be 39 cents per pound and 50 per cent ad valorem.

Mr. WALSH of Massachusetts. Mr. President, I think I had proceeded on yesterday with my discussion in opposition to the amendment of the committee to the paragraph up to the point where I was about to make a comparison between the rates proposed by the Senate committee and the rates named in the Underwood law.

COMPARISON WITH THE EMERGENCY LAW.

The emergency law provided for a compensatory duty of 45 cents per pound upon all woolen manufactures, including, of course, these dress goods, in addition to the protective duty of 35 per cent on dress goods, linings, and so forth, and 40 per cent on mohair fabrics already imposed in the Underwood law. That this compensatory duty of 45 cents per pound, plus the Underwood rate of 35 per cent on the main class of goods, namely, dress goods, constituted a formidable barrier to importations is shown by the fact that importations declined from a monthly average of from 125,000 to 150,000 pounds prior to the enactment of the emergency law to from one-third to one-half of this quantity since the passage of the emergency law.

COMPARISON WITH THE UNDERWOOD RATE.

The Underwood rate upon dress goods, linings, and so forth, as upon other wool fabrics was 35 per cent, no distinction being drawn between dress goods and cloths. Upon mohair fabrics, which fall largely in paragraph 1108 of the Senate bill, the duty in the Underwood law was 40 per cent, but these are relatively unimportant. So far as the protective rates are concerned, it is apparent that the Senate text raises the duty 40 per cent on the cheaper dress goods and 55 per cent upon those of higher value.

Was the Underwood protective rate sufficient to cover the difference in conversion costs? Attention is called to a table in an article entitled "The Tariff Board and Wool Legislation," by William S. Culbertson, House Document No. 50, Sixty-third Congress, second session. This table derives from the findings of the old Tariff Board computations of the difference between conversion costs here and in the United Kingdom on a large number of samples of wool fabrics. On various samples that would be included under paragraph 1108 the ad valorem duties necessary to cover the difference in conversion costs here and in the United Kingdom were as follows:

Sample No.	Name of cloth.	Ad valorem rate necessary to cover difference in conversion cost.
		Per cent.
4	Women's cotton warp sacking	29.82
2	Fancy cotton worsted	22.18
8	Women's homespun	25.89
12	Women's worsted serge	38.33
15	Women's worsted cheviot	41.01
27	Women's cheviot	38.23
10	Women's all-wool blue serge	38.92
17	Women's all-wool sacking	26.60

Thus, taking these samples as representative, it is apparent that the rate of 35 per cent subsequently enacted into the Underwood law represented a very liberal average of the ad valorem duties necessary to cover the difference between conversion cost here and abroad as indicated in the table above.

It may, of course, be argued that the great changes in prices and labor costs since 1913 have in part invalidated these figures. This argument can not be sustained. The fact of the matter is that while labor costs have greatly increased both here and abroad there is no evidence to be found that the ratio of the domestic to the British conversion cost is any larger than it was before the war. This matter is discussed in great detail in a report issued by the Tariff Commission in 1920, entitled "A Survey of the British Wool-Manufacturing Industry."

For instance, on page 76 of this report, it is interesting to note the following—referring to the comparison of the manufacturing cost, other than combing and spinning, here and in England:

For manufacturing proper and dyeing, the data which have as yet been secured indicate that the difference in both cases, except, perhaps, for fancy cloths, would surely be below the low figure in 1911 (100 per cent) and perhaps as low as from 60 to 80 per cent.

Nor does a comparison of prices seem to reflect any increased advantage to the British manufacturer in the matter of conversion, as is indicated by the following table and comment thereon contained on pages 80 and 81 of the same report:

Comparative prices of certain wool cloths in England and the United States.

Type of fabric.	American wholesale price per yard.	English net mill prices per yard, costing plus profit.
Botany serge	$4.90	$4.14
Botany clay	5.50	5.06
Crossbred serge	3.00	2.29
Botany lightweight serge	1.02	1.13
Cotton warp henrietta	.49	.67
Cotton warp, luster sicilian	.73½	.90
Crossbred unfinished worsted	6.75	4.50
Fancy worsted	11.00	5.58
Fancy woolen	4.25	1.41

While there are important irregularities among these figures, certain conclusions are possibly warranted. The tendency for English and American prices to approximate one another, already noted in the case of tops and yarns, is here also evident. Even making allowances for minor variations between the estimates of English values and those actually prevailing, there are obviously cloths of several types with regard to which no considerable differences of price exist between the English and American markets, while in some instances the domestic manufacturer really has an advantage. It is noteworthy in this connection to recall that in a similar, though more comprehensive, comparison made by the Tariff Board in 1911 there was no fabric of which the English price was higher than the American, nor, indeed, any which came nearer than 20 per cent of the American price.

Again, the difference in comparative advantage among the several types of cloth is fairly clear. Values in the two markets are much closer together in the case of serges and cotton-warp dress goods than in that of fancy fabrics. With regard to the former, no importation is possible, at least over the 35 per cent duty of the present tariff law, but for the latter the present rate is apparently inadequate. Just where the dividing line lies and to what extent the domestic production of cloths is of the more self-sufficient types could be determined only by a wide and thoroughgoing inquiry.

It is apparent from the foregoing quotation that, at the time that this report was written at least, prices did not reflect any advantage in labor cost in the British over the domestic industry comparable to the very high rates of duty provided in paragraph 1108 of this bill.

In view of this information, the latest and most accurate available, how can a protective duty of 50 per cent and 55 per cent on the wool fabrics included in paragraph 1108 be justified?

Finally, a further criterion of whether a rate of 35 per cent is sufficient is provided by the movement of the imports since the enactment of the law.

In the first six months of the calendar year 1914 imports of dress goods, linings, and so forth, amounted to 5,987,628 pounds, and in the fiscal year 1915 they amounted to 7,797,435 pounds.

The census does not segregate the lighter-weight fabrics, such as dress goods, from the heavier-weight fabrics, such as cloths. But, considering that the production of all fabrics in 1914 was 522,919,228 square yards and in 1919 was 491,961,000 square yards—equivalent to 298,190,000 pounds—it is quite apparent that the imports which followed the enactment of the Underwood law could not have been a serious handicap to the domestic industry. Some idea of the size of our production of dress goods is indicated by the 1909 census figures, as shown on page 153 of the old Tariff Board's report. The total production of dress goods, linings, and so forth, is shown as 231,399,981 square yards. On this basis, also, the imports above shown were very small. In fact, the imports which followed the enactment of the Underwood law did not increase in anything like the proportion which might have been anticipated as a result of the material reduction made in the duty. Indeed, considering the fact that there is always a holding back of goods in anticipation of a reduction of duty, the increase in importations was a rather moderate one. In fact, while the quantities of dress goods imported under the Payne-Aldrich Act are stated partly in square yards and partly in pounds, so that they can not be compared with those under the Underwood law, the value of the imports in 1914 and 1915 was even smaller than in 1909 and 1910, and about the same as in 1911.

COMPARISON WITH THE PAYNE-ALDRICH LAW.

The rates on these light-weight fabrics in the Payne-Aldrich law were as follows:

On dress goods, and so forth, containing a cotton warp, the rate ranged from 7 cents per square yard plus 50 per cent on those falling in the lower bracket to 8 cents per square yard plus 55 per cent on those falling in the higher bracket, with an additional proviso that any such goods weighing more than 4 ounces should take the same duty as cloths, less 5 per cent.

On dress goods, and so forth, not containing a cotton warp, the rate ranged from 11 cents per square yard plus 50 per cent to 11 cents per square yard plus 55 per cent.

So far as the protective ad valorem rates are concerned, it is apparent that the rates in the Senate bill are substantially the same as those in the Payne-Aldrich law. Of course, this does not mean, necessarily, that the manufacturer would be afforded the same amount of protection in this bill as in the Payne-Aldrich law, for, as has been previously stated, the old Schedule K was loaded with concealed protection in addition to the very liberal unconcealed protection which it afforded. In fact, the net protection accorded to the manufacturer by the Payne-Aldrich law was so absurdly high that it is a small compliment to the present bill to say that the dress-goods rates probably afford a somewhat lower net protection to the manufacturer than did the Payne-Aldrich rates.

For example, the old Tariff Board report shows that on cotton-warp dress goods the compensatory duties of 7 and 8 cents per square yard—depending upon the value—worked out so that, with a duty of 11 cents per pound on grease wool, the compensatory duty of 7 cents per square yard—or 56 cents per pound, assuming a 2-ounce cloth—was predicated upon a ratio of $5\frac{1}{11}$ pounds of grease wool for each pound of fabric. Even when assuming 3 ounces of wool per square yard, the compensation was 37½ cents per pound—only 6⅜ cents less than 44 cents, the maximum compensation on cloth—and when assuming only 1 ounce of wool the compensation amounted to $1.12 per pound. The situation was similar for the cotton-warp goods (upon which the compensatory duty was 8 cents per square yard) and for dress goods not having a cotton warp. The compensatory rates on these latter were predicated upon the assumption of an average shrinkage from grease wool to goods ranging all the way from 75 per cent on a 4-ounce fabric to 87½ per cent on a 2-ounce fabric; i. e., they assumed a ratio of grease wool to fabric ranging from 4 to 1 and higher. In all of these cases it is apparent that the ratios upon which the compensatory duties were based were absurd, for the Tariff Board clearly showed that even the 4 to 1 ratio was grossly excessive. It is not surprising, therefore, that with the concealed protection as here shown, in addition to the very high ad valorem duties, no invasion of our markets by foreign competitors was possible—not even a faint threat.

However, when we say that the net protection afforded by the Payne-Aldrich law was probably somewhat higher than that in the Senate bill, owing to the concealed protection in the compensatory rates, this does not mean that the total cost to the consumer in the present bill will be less, for in reckoning this latter we must also consider the compensatory duty necessitated by the very high duty upon raw wool. So far as the consumer is concerned, it matters not whether the benefits of the duty—both compensatory and protective—imposed upon the fabrics in the clothing which he wears go to the wool-grower or to the wool manufacturer. The consequences are just the same to him.

RECAPITULATION OF THE DISCUSSION RELATING TO DRESS GOODS.

The foregoing discussion clearly shows—

First. That the protective rates in the Senate bill are substantially the same as in the Payne-Aldrich law.

Second. That the net protection to the manufacturer in the Payne-Aldrich law was probably somewhat higher, owing to the larger amount of concealed protection in the compensation rates.

Third. That the protection in the Senate bill is from 40 to 55 per cent higher than in the Underwood law.

Fourth. That the rate of 35 per cent in the Underwood law is substantially in accord with the average of the rates shown as necessary upon dress goods in a very careful analysis of the Tariff Board figures prepared by one who is now a member of the Tariff Commission.

Fifth. That there has been no change in the ratio of conversion cost here and in the United Kingdom of a character which would tend to invalidate the conclusions drawn from the earlier investigation.

Sixth. That the rates named in the Senate amendment, if effective, will result in higher prices to the consumer than under any previous laws.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee as modified.

Mr. NELSON. I ask for the yeas and nays on that question.

Mr. LENROOT. Mr. President, I should like to ask the Senator from Utah one or two questions for information.

What is the Treasury Department's interpretation of the phrase "wholly or in chief value?"

Mr. SMOOT. The interpretation of the department is that an article coming in will fall under the classification of the material within the article of chief value. That is, it has to be of chief value of wool before it takes the rate provided for in this paragraph.

Mr. LENROOT. Does that mean, for instance, that if there are several materials, and the wool in it is the material of chief value, it takes the wool rate?

Mr. SMOOT. It takes the wool rate.

Mr. LENROOT. Although the aggregate value of the other materials might be more than the value of the wool?

Mr. SMOOT. No; there would have to be 50 per cent or more of wool in the fabric.

Mr. LENROOT. What is the difference between the phrase "wholly or in chief value" and "component material of chief value"?

Mr. SMOOT. The component material of chief value would be the wool itself. I do not think there is any material difference between the two expressions. Sometimes they use one and sometimes the other; but the decision of the Treasury Department is that wherever the words "wholly or in chief value of wool" are used it means that there must be 50 per cent of wool in the article.

Mr. LENROOT. In value?

Mr. SMOOT. No; in quantity. I thought it was the other way; I thought it was the value; but the Tariff Commission man tells me that it must have 50 per cent or more of wool.

Mr. LENROOT. That can hardly be. Does the Senator say it goes by quantity, then?

Mr. SMOOT. That is what I am informed. I always thought it went by value.

Mr. LENROOT. Suppose 40 per cent of it was silk. Would it take the wool duty?

Mr. SMOOT. So I am informed.

Mr. LENROOT. I have not been able to find the Treasury decisions upon that point.

Mr. SMOOT. The Senator will find the definition given in the last paragraph of the bill, on page 207. According to that definition, if two or more rates of duty are applicable to an article, it is dutiable at the highest rate.

Mr. LENROOT. I am just informed by one of the experts that it is hardly as stated by the Senator from Utah; that, in fact, if the total value of the pound is a dollar and 60 cents of that is wool, it will take the wool rate.

Mr. SMOOT. That is as I have understood it.

Mr. LENROOT. But if the chief value was that of the silk——

Mr. SMOOT. And it was 60 per cent——

Mr. LENROOT. It would not take the wool rate, although there might be more wool than silk in it.

Mr. SMOOT. Yes.

Mr. LENROOT. That is contrary to what the Senator has just stated, however.

Mr. SMOOT. I think that is the decision. One of the Tariff Commission men told me just a moment ago, before he went out—I suppose he has gone for the decision—that it was otherwise, but I can not think of it being otherwise than that. That is the material of chief value.

Mr. LENROOT. It ought to be otherwise, because if the fabric comes in worth $1 a pound and the wool in it is worth 60 cents, then, of course, it ought to take the compensatory rate, but if the wool in it is worth 40 cents, it ought not to take this compensatory rate.

Mr. SMOOT. I was going to call the Senator's attention to the definition given on page 207 of the bill.

Mr. LENROOT. That is, of the phrase "component material of chief value"?

Mr. SMOOT. Yes.

Mr. LENROOT. The component material of chief value, as I understand from the Treasury decisions, might be 85 per cent cotton, but if 15 per cent were wool, the wool would then be the component material of chief value, and the article would take the rate. I certainly hope the words "wholly or in chief value" are not synonymous with the words "component material of chief value."

Mr. SMOOT. I think there is only one way to construe the words "wholly or in chief value of wool," and I think they will be construed that way.

Mr. LENROOT. Which way?

Mr. SMOOT. It is my opinion, and I do not see how they could be construed in any other way, that if there were 40 per cent wool and 30 per cent cotton and 30 per cent silk, and the wool was worth more than 50 per cent of the value of the goods, the goods would take the wool rate. I can not see it in any other way.

Mr. LENROOT. That would be proper. There is no objection to that construction. But that would not be the construction of the phrase "component material of chief value."

Mr. SMOOT. But this is "wholly or in chief value."

Mr. LENROOT. I understand, but the Senator said he thought they were synonymous.

Mr. SMOOT. I think they are.

Mr. LENROOT. If they were synonymous, then a single thread of silk would be the component material of chief value, if silk were worth more than wool.

Mr. SMOOT. If worth more than all of the balance of the article.

Mr. LENROOT. It would not come in under this provision at all.

Mr. SMOOT. It would not anyhow, under any circumstances or conditions. "Component material of chief value" means that material has to be 50 per cent of the value of the article.

Mr. LENROOT. Do I understand that if there is one material of greater value than wool, although it may be 5 per cent of the contents of the fabric, then the paragraph would not apply? In other words, under the phrase "component material of chief value," wool must be the material of the highest value, no matter how little wool there may be in it?

Mr. SMOOT. I am told by the Tariff Commission that they are exactly the same, and are so construed to-day. I do not see how it could be otherwise.

Mr. LENROOT. There might be about 5 per cent of wool in a fabric, and the rest of it cotton, and if the Senator's theory be correct, although the cotton actually in the fabric might be worth twice the value of the wool, it would take a compensatory duty of 40 cents a pound.

Mr. SMOOT. No; it would not.

Mr. LENROOT. That is what the Senator just said.

Mr. SMOOT. If I said any such thing, I did not mean it. I think the Senator misunderstood me.

Mr. LENROOT. I do not think so. If the Senator says that the phrase "component material of chief value" and the phrase "wholly or of chief value" are the same, I certainly am right in saying that with the words "component material of chief value" there may be 5 per cent of wool and the rest cotton, and it would take the rate, under the phrase "component material of chief value," as I have been informed by one of the experts that under this phraseology the aggregate value of the fabric will be taken into consideration, and if the wool in it is worth more than 50 per cent it will take the wool rate.

Mr. SMOOT. That is, under the words "wholly or in chief value of wool."

Mr. LENROOT. That is a different thing from "component material of chief value."

Mr. SMOOT. We are not using those words, and there is a dispute, I suppose, between the two officials. We are using the words "wholly or in chief value of wool," and that we agree upon.

Mr. LENROOT. I hope they are not synonymous with "component material of chief value," as I understand the decisions.

Mr. SMOOT. I shall telephone to the commission and find out if they have any decision there, and ask them to send me a copy of it they have one.

Mr. LENROOT. If there were a fabric with 5 per cent wool and all the rest of the fabric cheaper material, the committee did not intend to have that take the wool rate?

Mr. SMOOT. No; and of course it would not, because we use the words "wholly or of chief value."

Mr. NELSON. Mr. President, there can not be any mistake about the meaning of these words. They are based upon value; they are not based on quantity of the material put in, but on the value of the goods.

Mr. LENROOT. I was troubled with the thought whether, if wool were the most valuable material in the article, it would take the wool rate. The other construction would be that if the wool in it were worth more than all the rest of the material, then it would take the wool rate.

Mr. SMOOT. I have sent the expert to telephone to the department to see if they have any written decision upon the question. But the Senator and I agree as to the wording used in this schedule.

Mr. LENROOT. The Senator will agree that if the Treasury decision should not be clear on it, in conference it will be made clear that it is based upon the aggregate quantity, the wool being more valuable than all other materials contained.

Mr. SMOOT. There is no doubt of it.

Mr. SIMMONS. I think the Senator from Utah in his last statement is absolutely correct. I think we have always understood, and the departments have always held, that where the words "chief value" are used, as in this bill, they meant if the wool or other material in the article was of greater value than the other contents——

Mr. SMOOT. All the other contents.

Mr. SIMMONS. Then it took the rate.

Mr. SMOOT. I will say to the Senator that if there is any doubt about it, after receiving word from the commission, I will ask unanimous consent that it be changed; but I am quite sure there will be no question about it.

Mr. SIMMONS. I would like to call the attention of the Senator from Wisconsin, at this point, to another circumstance which I think of very great importance in connection with the "of chief value" provision. It is a common thing for cloths to be made of part wool and part cotton, "fifty-fifty," as we say. Those are sold as woolen goods. They are woolen goods, in the sense that the wool in them is of greater value than the cotton, and under the language of this bill the duty would apply.

Mr. SMOOT. The compensatory duty does not apply, because we only give 40 cents on that instead of 49.

Mr. SIMMONS. The duty does apply, but is adjusted and regulated to some extent, to a very slight extent, however, by the cost of the article.

Mr. LENROOT. If it were half cotton, of course there would be a hidden protection on account of the weight.

Mr. SMOOT. That is impossible. If it were 50–50, as the Senator says, it would fall under the 40-cent rate instead of the 49-cent rate, and that is midway between the 33 and the 49 cent rate.

Mr. LENROOT. If it were half wool, of course; under this rate of 40 cents, it is assumed that $1\frac{7}{13}$ pounds of wool was required. So, whenever the cotton in the article would rise above nine thirty-thirds of the total weight, there would be a hidden protection.

Mr. SMOOT. If it went over 25 per cent, or one-quarter of the 33 cents, which is $8\frac{1}{4}$, that would be true. But there is no such case.

Mr. SIMMONS. I am advised that it is possible to make a cloth with $33\frac{1}{3}$ per cent wool and the balance of other fiber, like cotton, in which wool would be the chief element. Of course, that would be a very fine grade of wool in value.

Mr. SMOOT. If you put $66\frac{2}{3}$ per cent cotton in the cloth, you would not find very much wool in it, and you would never sell it to any people in the world as woolen goods.

Mr. SIMMONS. I do not know whether you would or not. You would probably sell it as part wool and as part cotton. The price would probably be reduced on account of the fact that there was so much cotton in it. But certain grades of wool are mixed with certain grades of cotton in the proportion of 1 to 2, where the wool would be of more value.

Mr. LENROOT. Take a case where wool is worth $1 a pound and cotton is worth 20 cents a pound. Two-thirds of the fabric in weight might be cotton, and yet the article would take the wool compensatory duty.

Mr. SIMMONS. Certainly.

Mr. SMOOT. But no manufacturer is ever going to spoil his goods so that he could not get anything out of the wool at all. If you took a blanket with cotton in it—I do not mean the warp, because that is taken care of, but I mean filling—and tried to wash that blanket, you would see whether there was any wool in it or not.

Mr. LENROOT. I think that is true. Quite often during my life I have found that we buy things as wool, but when we wash them we find they are of something else.

Mr. SIMMONS. You do not find it out until you buy them.

Mr. SMOOT. No manufacturer is going to try to build a reputation in that manner, when he knows that if he does that kind of thing he can not make a second sale.

Mr. SIMMONS. I think you will find that a great many goods on the market which are sold as woolen goods contain less than 50 per cent wool. The other ingredients may not be altogether cotton, but of some other fiber. In that case the cloth would take the compensatory rate of practically all-wool goods, only reduced somewhat by the value of the cloth.

In many instances it is reduced slightly. In the case of these "fifty-fifty" goods the reduction in the cloth is but slight, because it is a very rare thing that you get all wool goods in this country. Where the cost is reduced only slightly the manufacturer would get a compensatory duty upon a pound of wool, whereas there was not a pound of wool in the cloth, but only half a pound, so you certainly would have concealed protection there. Upon a half a pound of wool he would be getting at the rate of 66 cents a pound.

Mr. LENROOT. I have some illustrations of that kind.

Mr. SIMMONS. That is only modified by the price of the cloth, and I say that modification is not sufficient to make up the difference which would grow out of the duty in case only one-half of it is wool.

Mr. SMOOT. If it is all wool it is 49 cents, and we give a compensatory duty of only 40 cents. There is a difference between the 33 cents and the 40 cents of only 7 cents instead of a difference between 33 and 49, which is 16. That is more than 50 per cent of the compensatory duty on the cloth above the scoured wool, upon that priced goods. I arrive at that figure because I know just about what will happen in making that class of goods under normal conditions.

Mr. LENROOT. The Senator does not deny that in this schedule there is concealed protection; I do not mean intentionally so, but inevitably so.

Mr. SMOOT. In practice I do not know where it is.

Mr. LENROOT. I think I shall be able to convince the Senator with reference to that point before I get through.

Mr. SMOOT. I do not know what kind of goods it is in practice.

Mr. SIMMONS. The Senator just stated that if it is all wool it gets 49 cents and if it is not all wool it gets 40 cents.

Mr. SMOOT. That is on goods of a certain price.

Mr. SIMMONS. Suppose it is not all wool, but there is enough wool to get a duty. Suppose it is 50 per cent wool, the compensatory duty is reduced to 40 cents instead of 49 cents, so that by reason of the fact that there is 50 per cent of it cotton we would have to reduce the duty only 9 cents.

Mr. SMOOT. No; it would not be 50 per cent cotton.

Mr. SIMMONS. In other words, if it is all wool it is entitled to 49 cents, but if half of it is wool and half of it is cotton it is entitled to 40 cents. Is it not perfectly clear that it is 40 cents in that case for half a pound of wool?

Mr. LENROOT. I have an illustration right here that comes very near to the illustration stated by the Senator from North Carolina. I hold in my hand a letter from Mr. Dale, editor of Textiles, in which he incloses and permits me to use an editorial appearing in that magazine this month. It is on the question of hidden protection; and when I say "hidden protection" I do not use it in the sense of criticizing the committee, because with the scheme or plan which the committee has adopted in the bill, if it is to give a proper compensatory protection where it is all pure wool, hidden protection on this plan necessarily results where a part of it is wool and would still take the full wool compensatory duty.

Mr. Dale gives this illustration as to suitings, 54 inches, 14 ounces. Those would not come under the pending paragraph, of course; they would come under the next paragraph, but the illustration holds good. Suitings, 54 inches, 14 ounces, value 97 cents per pound; 42 per cent cotton and 58 per cent wool. The duty upon a thousand pounds of this fabric at 49 cents would be $490, or an ad valorem equivalent of 50.5 per cent. The 50 per cent ad valorem, therefore, would amount to $485, making a total duty, compensatory and protective combined, of $975, or 105 per cent. Remember, this was 42 per cent cotton and 58 per cent wool, and the compensatory duty actually required in the fabric, according to Mr. Dale, would mean 870 pounds of scoured wool paying a rate of 33 cents a pound, or a total of $287.10, against an actual compensatory duty covered in the paragraph of $490. Therefore the actual protection upon the piece of woolen suiting would amount to $687.90, or an ad valorem of 70.9 per cent instead of 50 per cent, as is provided in the bill. In other words, there is a hidden protection upon this piece of cloth of 20.9 per cent ad valorem.

Mr. SIMMONS. Mr. President, I want to say to the Senator that I have quite a number of letters working it out in the same way, and there can not be any doubt about it.

Mr. LENROOT. As I said, if the plan is to be adopted, I do not know that that can be avoided; but I want to ask the Senator from Utah this question: Under the phrase "wholly or in chief value of wool," it will be necessary for the appraisers to appraise and ascertain all the elements in the fabric. They

will have to ascertain and appraise the wool; they will have to ascertain and appraise the cotton or the wool extract or the wool waste, or whatever it may be, in order to arrive at a determination of whether or not it is wool of chief value. Is not that correct?

Mr. SMOOT. Not wool waste and not wool content of any kind. That they would not have to ascertain. All they would have to ascertain would be whether any silk or cotton was in it. The wool wastes are counted as wool.

Mr. LENROOT. But they would have to ascertain the value.

Mr. SMOOT. They would have to ascertain the value of the wool.

Mr. LENROOT. They would have to ascertain the value of everything other than wool.

Mr. SMOOT. Yes; and that would only be cotton, unless it would be some few silk threads that may go into a suiting, and they do not amount to anything so far as value is concerned.

Mr. LENROOT. If they have to ascertain the value of the material other than wool, why would it not be equally possible for them to ascertain the wool content of the fabric in weight?

Mr. SMOOT. Certainly they can. If it is cotton or vegetable fiber of any kind, they simply take the small piece of cloth, which they can put into an acid bath which eats out the vegetable fiber, and they then know what percentage of it is vegetable fiber.

Mr. LENROOT. So they can ascertain the proportionate weight of wool in any given fabric?

Mr. SMOOT. Yes; but they can not ascertain whether it is waste or whether it is wool. That it is impossible to ascertain.

Mr. LENROOT. I understand. Then, if that is correct, why have not the committee, in providing for compensatory rates, provided for a compensatory rate upon the wool content instead of the entire weight of the fabric?

Mr. SMOOT. I did not catch what the Senator means.

Mr. LENROOT. The Senator said it was easily possible for the appraiser to ascertain the proportionate quantity of wool in a fabric or an article by weight. I grant that. Now, my question is, that being true, if the appraisers can ascertain whether a given article is 60 per cent or 50 per cent or 75 per cent of wool, why have not the committee provided compensatory duties upon the wool content of an article instead of the entire weight of the article?

Mr. SMOOT. In that way, without putting in the value, they would have to test every single piece that came in.

Mr. LENROOT. It would have to be done anyway.

Mr. SMOOT. Oh, no; not at all. They can very easily test first as to the value, which they must have, and then, if the value is low enough, it takes only 40 cents, and if it is higher it takes 49 cents.

Mr. LENROOT. They will have to test for value.

Mr. SMOOT. Yes; they will have to test for the element of chief value, but not the value of the cloth.

Mr. LENROOT. They will have to do that, and the Senator has said that it is easy also to determine by weight the proportionate content of the wool in the article.

Mr. SMOOT. I would not want to give a rate of 49 cents here if the value of the cloth was low, made so by the putting in of all wool waste and having no cotton waste or cotton in it at all.

Mr. LENROOT. No; of course not; but the committee could adopt here the same rule they have adopted elsewhere, allowing a lower compensatory rate for wool waste.

Mr. SMOOT. But they can not ascertain the percentage of waste in it.

Mr. LENROOT. No; they have to guess at it, just as the committee have done in the bill.

Mr. SMOOT. We have simply arrived at the value of the cloth, knowing that it could not be all wool.

Mr. LENROOT. Exactly so; and in making their estimates on a low value, in assuming that so much of it is pure wool, so much of it wool waste or other waste of wool, the committee could then, according to the Senator's own statement, eliminate all cotton or other material and give a compensatory duty based upon the wool alone.

Mr. SIMMONS. Mr. President, if the Senator will pardon me, that applies to yarns as well as to cloth.

Mr. LENROOT. It certainly does.

Mr. SIMMONS. Will the Senator pardon me a moment further?

Mr. LENROOT. Certainly.

Mr. SIMMONS. I have in my hand a statement sent me by the Carded Wool Manufacturers' Association, 146 Summer Street, Boston, Mass. After discussing an ad valorem rate as the proper one to adjust the difficulty growing out of the methods adopted by the committee, the statement proceeds:

> We have thus far referred only to goods made wholly of wool. The compensatory duty on goods made of mixture of wool and other fabrics represents a special problem that requires solution. The phrase "wholly or in part of wool" in the old Schedule K, which is also in the present House bill, resulted in a scandalous excess of compensatory duties on mixed goods. The phrase "wholly or in chief value of wool," which the Finance Committee has substituted in the present bill, is a very inadequate remedy, leaving, as it does, huge amounts of protection concealed in the compensatory duties. To avoid this defect we recommend that the compensatory part of the ad valorem duty on mixed goods be made proportionate to the percentage of wool in the weight of the goods, a recommendation that we made to the Finance Committee on December 14, 1921, and which has been ignored by both the Finance Committee and the Tariff Commission.

Now, the Senator suggests that way of meeting the difficulty. It is a complete remedy, in my judgment, for the difficulty growing out of the concealed protection in the compensatory duties. If it is necessary to find, as it is necessary to find, the content of chief value in any article where the rate of duty is to be determined by whether a given thing constitutes the element of chief value in the article, that happens in the tariff schedule in a great many instances. In this particular instance it is no more difficult than in others. As the Senator very well said, it is absolutely necessary in the first instance for them to find that the element of chief value is cotton or wool, and when they have found that, then they could apply the ad valorem principle to the wool.

Likewise in the cloth, as the Senator has said, in order to determine the question of whether or not it is entitled to a compensatory duty at all, it is necessary to find that wool is the chief element of value. When that has been found, what is the difficulty in fixing the compensatory rate upon the basis of the percentage of the wool in the article instead of fixing it upon the total contents of the article?

Mr. LENROOT. Mr. President, I am frank to say I had supposed, without having had opportunity to make any careful inquiry into the subject, that there would be a considerable degree of difficulty in ascertaining the wool content; but the Senator from Utah [Mr. SMOOT], a woolen manufacturer and an expert upon this subject, states that there would not be such difficulty. That being so, I can not, for the life of me, see why this compensatory duty is not based upon the wool content so that we may at least prevent this hidden protection where the fabric or the article to from 30 to 50 per cent is made of some other material than wool.

Mr. President, in order to test the sense of the Senate, I move to amend the pending amendment by inserting after the word "pound," in line 6, page 146, the words "upon the wool content thereof."

The PRESIDENT pro tempore. The question is upon the amendment proposed by the Senator from Wisconsin to the committee amendment.

Mr. SIMMONS. Mr. President, I had not intended at this time to enter into a discussion of these compensatory duties, but the Senator from Wisconsin [Mr. LENROOT] has brought the matter up, and I have some very decided views about it which I wish to express. Besides, I have some data in reference to the matter which I wish to lay before the Senate.

All during the discussion of the duties upon yarns and fabrics, whenever it has been brought to the attention of the committee that the rates proposed seemed to be outrageously excessive, the Senator in charge of the bill has replied, "We are compelled to provide these high compensatory rates because of the duty which is placed upon wool." Members of the committee have spoken of that duty rather apologetically as a rate they were forced to impose and as to which they could not help themselves.

Mr. President, who is responsible for the high duties upon the raw material? The Republican Party in this Chamber have themselves placed those duties in the bill. That party alone is responsible for them. Republican Senators, therefore, can not excuse themselves when complaint is made that the compensatory rates are too high by saying "We were forced to make them thus high because of the high rates on wool."

There has never been in the framing of a tariff bill in the United States a case of such gross discrimination as there is in the fixing of the duties upon raw wool in the pending measure. It is entirely proper, Mr. President, to impose a fixed and rigid specific duty upon a product which is of uniform value and of reasonably uniform quality; there is no inequity in that. Every purchaser of the article pays a duty at the same rate and every producer gets the benefit of the same rate; but here we have an article, raw wool, that divides itself into as many parts and grades as do cotton and tobacco. Its value is determined altogether by its quality. We do not overcome that discrimination when we impose the same rate of duty upon the scoured content of wool of one grade as we impose upon the scoured content of wool of another grade. It

is true the duty applies to the same quantity in both cases, measured by weight, but the scoured content of certain wools is worth 20 cents a pound in the foreign market to-day; indeed, certain inferior grades sell for as low as 16 cents a pound in foreign markets to-day, while the scoured content of another kind of wool is worth in the foreign market $1.20 a pound.

The scoured content of certain lower grades of wool in this country to-day is selling in the Boston market at 41 cents a pound; the scoured content of higher grades of wool is selling in the Boston market, I think, for $1.35 a pound. I am not quite sure that my figures are correct as to that, but they are substantially correct. In between these two extremes there is a vast variety of wools in which the scoured content sells for one price and another price and another price according to its grade of coarseness or fineness.

To levy a flat and rigid duty upon that raw material without any reference to its price when the price ranges from 41 cents a pound to $1.35 a pound in the American market and from 16 cents to $1.35 in the foreign market is to inject into this tariff bill with reference to this vital product, which is made the key to the duty upon cloth and the clothes which the people wear, an element of uncertainty and of discrimination without a parallel, I think, in tariff history.

This discrimination, resulting in the rankest injustice to everybody concerned, especially to the consumer who is the purchaser of the cloth, is necessarily carried forward in the duty on the yarn and on the cloth and on the garments and other articles made of woolen goods.

Mr. President, that could have been avoided. It can be no possible excuse for an injustice and a discrimination of this kind to say that it was difficult to arrange it in any other way; that there were administrative difficulties which were almost impossible to overcome. A rate of this sort that works this kind of injustice which is necessarily carried on, getting larger and larger until, in the last analysis, the people are the victims, ought not to be tolerated. To say that there is no other way by which we can tax these raw materials except by imposing a specific duty upon them in bulk, without reference to the grade or quality or value, is to repudiate the whole tariff history of the country and the method of dealing with it that has heretofore been followed. It is also to confess that the present majority party is not able properly to formulate a tariff bill.

At least, Mr. President, if the committee felt that there were administrative difficulties connected with ad valorem rates upon raw wool which could not be overcome without great trouble to the department, they might have divided the wool into classes, the classification to be based upon the value or the quality, and might have imposed one specific rate upon one quality and a different specific rate upon another quality. That has been done heretofore; that would be better than the plan proposed in the pending bill, under which all are bulked together—the Australian wool, the New Zealand wool, the wools of all the countries of the world—without any reference to variety or quality, the same fixed, unyielding rate of duty being imposed upon each. The man who buys wool of a foreign value of 16 cents a pound in order to bring that wool into this country has to pay a duty of 33 cents a pound upon it, and in the last analysis the ultimate consumer of that article has to pay that rate.

Mr. SMOOT. Mr. President, I think the Senator will want to correct that statement.

Mr. SIMMONS. I am talking about a scoured pound.

Mr. SMOOT. The Senator did not say that.

Mr. SIMMONS. Of course, I am talking about a scoured pound, as is plain, or ought to be, to everyone. We are not dealing with wool in the grease in this schedule at all. I am talking about the raw-wool schedule. There is no provision there about taxing wool in the grease. Wool is taxed on the scoured content, and what I am saying is that there are certain classes of wool sold in Great Britain to-day as low as 16 cents a pound and there are other classes sold at $1.20 a pound, and to-day in the Boston market there are scoured wools of the lower grades selling for 41 cents a pound, and there are high-grade wools selling for $1.35 a pound.

What I said was this, and the official records will bear me out: There is some wool sold on the London market for 16 cents a pound. I am referring to scoured content, of course. That wool, when it comes into this market, has to pay a duty of 33 cents a pound. That is practically twice as much as it costs in the foreign market. The man who brings in foreign wool that costs $1.20 a pound in Great Britain or anywhere else in the world pays only the 33 cents a pound. He pays as a duty one-third of the price of the wool he bought. The other man, who buys the 16-cent wool, pays as a duty double the price at which he bought the wool. I say that no such monstrous discrimination and injustice as that has ever before found its way into a tariff bill in this country.

I am not going to argue the question of whether it was entirely feasible to impose an ad valorem duty upon raw wools and carry that forward in the products of raw wools; but in the letter from the Carded Woolen Manufacturers' Association, which I will ask to have published in the RECORD without reading, that question is discussed, and I think the conclusion is reached that it is entirely feasible. I want to say, however, that I can go through this bill, and I can pick out various other provisions of it that assimilate themselves to this situation, in which we have found it feasible to deal with it from the standpoint of ad valorem rates.

It was not, however, that phase of the matter that I rose to discuss. I refer to that simply for the purpose of showing that the fundamental trouble about this whole situation is the erroneous and the misleading and the discriminating method employed by the committee in fixing its duty upon the raw material. That error having been once committed, of course it will pursue us to the end of this schedule. There is no escape from it. Senators do not avoid their responsibility to the public by saying, when we get to the cloths, that they are forced to place upon them these excessive and unheard-of duties, ranging as high as 100 per cent upon the coat that a man wears, because of the high duties upon the raw material for which the manufacturer must be compensated. They can not escape the blame with that sort of an excuse, because they are responsible for these high duties on raw wool and for the outrageously unjust and unequal manner in which they have imposed these rates, working wrong and injustice and discrimination all through the schedule.

Now, Mr. President, I get to the subject that I really rose to discuss, and that is the subject of these compensatory rates. The rates that are imposed on woolens in this bill for the purpose of protection are very excessive, and they are wholly unnecessary and unjustified, as was proven by the Senator from Massachusetts [Mr. WALSH], who in the very able and exhaustive presentation that he made yesterday, showed conclusively that with respect to the most of the products of wool on which these high compensatory rates are imposed the Underwood rates have been so effective that they have reduced importations in many instances to a minimum, and in some instances have practically excluded importations.

His facts and figures have not been disputed or overthrown; and in that situation there would seem to be no excuse or equity in raising these rates higher, especially in view of the fact that the compensatory rates are going to put the price of these cloths up to a point where, in my judgment, very little wool of the lower grade will be imported, and we shall have a flood of domestic goods bearing the name of woolens made of shoddy and noils and the waste products of wool.

The ability of the consumer to buy must sometimes be taken into consideration. Woolen goods are now so high that poor people have to put up with some substitute, or have to buy the very cheapest quality of woolen goods, which they understand to mean goods made out of cotton with a little shoddy or waste wool in it. With these high duties practically doubling the price of many of the products of wool, especially the clothing worn by the common people as well as by the rich—an article that is absolutely necessary in certain sections of the United States in times of winter—they will be so high that it will be difficult for the consumer of moderate means, especially the man who has to earn his living by the sweat of his brow, to buy anything except the very cheapest clothes made of these materials, or into which these materials enter to any extent whatsoever. In that situation, with the distress that exists among a large class of the consumers in America, with 50 per cent of them, the farming classes, unable, generally speaking, to make ends meet in their operations, making nothing upon their capital, and in many instances when fortunate enough to come out even, having no profits whatever, there is certainly no justification for levying these excessive duties on the lower grades of raw wool, two or three times as high as the duties imposed on the finer grades of raw wool. I repeat, there can be no excuse for the majority's proposition of not only levying these high and excessive rates upon the raw material, which are carried forward in the finished product by way of compensation, but actually increasing in these conditions a protective rate that has for 9 or 10 years, when raw wool was free, proved adequate not only to protect the wool manufacturers of the United States but practically to exclude certain outstanding products of the woolen mills, giving our wool manufacturers a virtual monopoly of the market, which they have taken advantage of and greatly raised their prices;

indeed, they are to-day, by reason of protection which is practically an embargo, selling their goods at a rate out of proportion to the standard of wage and the standard of profit under which two-thirds of the people of this country are living.

What do they want higher duties for, when the present duty is highly protective or prohibitive? When I have asked that question heretofore, when a situation exactly like this has developed, the answer I have gotten, and the only answer, is: "Well, if no importations are coming in, increasing the duty will do no harm." Why, then, do they want these duties increased? As the able Senator from Massachusetts [Mr. WALSH] yesterday showed, in this industry—and it is true of practically the whole textile industry; less so, probably, in the cotton industry than others, because in that industry the number of mills is many times larger—but in the textile industry as in the steel industry of this country and in many other industries of this country, unfortunately the process of consolidation and combination and agreement and monopoly has progressed to the point where the industry has been either monopolized altogether or sufficiently controlled by monopoly methods to enable the producer to fix his price arbitrarily, subject only to two conditions: First, the amount that the traffic will bear; second, the danger of foreign competition in case the price is raised above the level of the duty imposed.

In most of these cases where the industry is monopolized or trust controlled as to prices, as in the case of the woolen industry, the price has been raised practically to the level of the present duty. They have not raised it higher because the minute they raise it higher they invite foreign competition. They want to raise prices, and they are raising prices. There is not a day that we do not read in the newspapers of some increase in the price of woolen goods here and there. Since this bill has been under consideration the prices of certain woolen goods have advanced first 10 and then 25 per cent. They can not go any higher without inviting foreign competition. Probably present prices would have invited some but for the demoralized and crippled condition of the industries in the Old World. These protected profiteers want to go higher. They intend, the minute this bill is passed, to go higher.

It is common knowledge that there is going to be a jacking up of prices all along the line as soon as this bill is passed. Some men in the big trust-controlled industries are sufficiently wise and prudent to restrain themselves until the bill is passed, because they are afraid that if they should begin to increase prices before it passes it might have a deleterious effect upon the prospects of the bill. But the woolen industry in many of its branches has not been able to restrain itself. It has been raising prices in anticipation. What do they want with more duties? They want them for the purpose of enabling them to further increase their prices and at the same time, by reason of the increase in the duty upon the product, to continue to be immune from foreign competition.

In these debates I have heard some most amazing statements. The Senator from Indiana [Mr. WATSON], a member of the Finance Committee, a bright particular star in the Republican firmament, in an address which he made in the Senate at the time he staged that vaudeville exhibit which rather sickened the country, and which has become the subject of laughter and of jest from one end of the country to the other, made this broad statement, in effect: "Take care of the producer and the consumer will take care of himself."

Mr. President, with production in these industries in the hands of monopolies, in the hands of price-controlling trusts, how can the consumer take care of himself? If we add additional duties, the consumer, who is now not able to take care of himself, as everybody knows, will be confronted by a still harder proposition in his attempt to take care of himself. Take care of the producer and let the consumer take care of himself! How is he taking care of himself now? He is taking care of himself now by being forced to pay from 50 to 100 per cent more for many of the common things of life than they are intrinsically worth and than is warranted upon any basis of cost of production. He is utterly helpless. Yet this shining light of the Republican Party suggests that our business here in legislating is to provide for the producer and protect him, confer upon him all sorts of favors through the tariff, stop trust prosecutions, and put no impediment in the way of the formation of trusts. That is a magnificent way of taking care of the producer.

The Republican Party has been in power over a year and I have not heard of any prosecutions of trusts, although we all know that during the war the trusts in the United States multiplied and multiplied, and that their power to-day is infinitely greater than it has ever been in the history of this country, and we all know that if this bill passes the hands of the trusts will be further strengthened and the further monopolization of the industries of this country will be invited.

Oh, yes; help the producer. Do not prosecute him if he is in a trust. Do not interfere with his trust organizations. Give him a free hand to monopolize, and then give him enough tariff duty to enable him to raise his present skyward prices until they bump the sky. That was his theory, and the country should know that such is the doctrine of the Republican Party as represented by its leaders in this Chamber.

Mr. NICHOLSON. Will the Senator yield to a question?

The PRESIDING OFFICER (Mr. MOSES in the chair). Does the Senator from North Carolina yield to the Senator from Colorado?

Mr. SIMMONS. No; I do not wish to be interrupted. I am going to make this speech without interruption. I have been drawn off from the things I was talking about on former occasions, and I am not going to be diverted now.

Later we had another most remarkable declaration made here from another very conspicuous and unique figure in connection with this tariff legislation. Of course, I need not name him, because everybody will recognize him at once by the description I have given. I refer to the junior Senator from Idaho [Mr. GOODING], the man who has succeeded in out-Heroding Herod in his demands for protection. He is the leader of the agricultural "tariff" bloc upon the other side of the Chamber. He is the man who dictated these high rates upon wool and all other agricultural products. He made his demand of his Republican colleagues as spokesman of the bloc, and he got what he wanted, every bit of it, and he is demanding of the Senate to-day his pound of flesh. The Finance Committee has shown quite a disposition during the past two or three weeks, while we have been dealing with the cotton schedule and some of the schedules before that, to meet the demands of the country and to recognize the growing opposition of the public and the growing opposition among Senators on the other side of the Chamber. Day after day they have come in and cut their rates, sometimes unexpectedly cutting them almost to the bone, cutting them down almost to the level of the Underwood rates.

That became a common practice. Sometimes their changes covered five or six pages, numbering scores of amendments, expected to be offered that day or subsequently. But it is noticeable that since we reached the wool schedule the committee has come to a sudden halt, and we have no more concessions worth mentioning. Why is that? Why suddenly change this policy of reducing these rates, proven and established and recognized by everybody as being excessive and unjust and unwarranted? Why suddenly stop when we reach wool? I will tell the Senate why. Wool is the very keystone which has bound the other side of the Chamber together in a hard and fast compact, whether implied, expressed, or understood. That has become absolutely necessary to the integrity of the bill and to enable it to be passed through the Senate at all.

The rate on raw wool is the key to the whole situation. If you cut that, look for rebellion on the part of the "agricultural tariff" bloc; look for the slaughter of your high rates upon the manufactured articles.

Mr. President, I think one might safely say that with the increased protective rates in the wool schedule and the increased protection they are going to get in the way of this camouflaged tribute in the compensatory duty, the woolen manufacturers of this country are going to have a protection which will be so satisfying, so complete and all-embracing, that at least for many years to come we will hear no complaint from the woolen people about importations from abroad. But the people will indeed groan under their exactions.

These protective rates, plus the protection in the compensatory clauses of the bill, are going to give the producers not merely control of the American market but are going to give it to them without any interference or the possibility of interference by competition from abroad. The embargo during the war was not more protective and prohibitive than will be these rates.

But, Mr. President, I was speaking of the junior Senator from Idaho [Mr. GOODING]. The Senator from Idaho, I said, is the "master mind" in connection with the wool schedule. He has forced terms upon the Republican Party in the Senate, and he is not going to let them out, and the minute they undertake to interfere with the rates he forced upon the schedule there is going to be trouble about the rates the others on that side want.

But what I desire to call particular attention to in connection with the part of the junior Senator from Idaho in this matter were certain observations which he has made in the

Senate, not once, not twice, but repeatedly, showing that it is a fixed conviction in his mind, to the general effect that he is in favor of a tariff so high that nothing which is produced or can be produced in this country shall be subject to foreign competition. In other words, properly interpreted, the Senator, if not in express terms, though I think it was practically expressed in language that he used, means that he wants to establish a universal embargo, throw all around our borders a high protective wall, and exclude the product of every other country in the world if that product can be or is produced in this country even by the "hothouse method." That means, of course, the establishment in the United States of a policy which was inaugurated in another quarter of the globe centuries ago.

China, the oldest civilization in the world, with a philosophy and a science and a religion that antedates ours, with an industrious population, with exhaustless supplies of all the essential raw materials—I doubt whether there is any country upon the face of the globe so favored with the essential and vital raw materials of manufacture—with a rich and fertile soil, with a reasonably salubrious climate, centuries ago established the policy of seclusion and isolation. Notwithstanding the balance of the world since that time has advanced in economic and financial resources and status beyond the dreams of the philosophers and statesmen of the olden time, or even of the middle of the past century, China to-day stands but little further advanced industrially, economically, or financially than she was when that policy was first inaugurated.

That is the policy which would be inaugurated here by this gentleman representing a great State of the Union, the head of the "agricultural" bloc, whose mandate was honored by the committee and who stands here with a whip in his hand and restrains the Finance Committee from regulating and correcting the evils which are denounced by Senators upon both sides of the Chamber who have studied the question and who understand it, and whose complaints are not even heeded or answered. He has made that declaration. And on the Republican side there comes no repudiation, no rebellion, against the high hand of the modern tariff Herod.

What, I inquire of Senators, will be the effect upon the wheat, cotton, and tobacco farmers of the United States if this suicidal policy is adopted and they should as the result of it, as they would, lose their foreign market for the sale of their great surplus? Will not wholesale bankruptcy and ruin inevitably result?

Now, Mr. President, I come back to the wool schedule. The Senator from Wisconsion [Mr. LENROOT] has rendered a distinct service, although I think it has been entirely futile in its effect upon the Finance Committee and in its effect upon the Senate. Notwithstanding the clear, manifest, undeniable, and practically uncontroverted justice of his position calling for the application of the reductions and the readjustments which the committee have been making now for three or four weeks, the Senator from Wisconsin recognizes, as I think we all recognize, that upon this schedule we are absolutely hopeless and nothing can be accomplished. The cards have been stacked. The deal has been arranged. The rates of this schedule are the basis of the coalition between the Republican factions. It is to that coalition what the blood which palpitates in my heart is to my life. It must not be touched. Touch it and the whole bill is wrecked. The Senator from Wisconsin recognizes that situation as we recognize it, although he may not be quite so open or bold as I am in his expression about it.

There is another feature to which the Senator from Wisconsion called attention this morning that is very interesting. The compensatory duties are levied not exactly as they were in the Payne-Aldrich law. The rule is different. They are not levied as in other Republican tariff laws which have been enacted. The pending bill provides that the application of the duty of 33 cents, when translated into rates that are proposed to be corresponding when the wool is converted into yarn and cloth, whether the rate be on the raw material or in the translated state on the finished or semifinished product, shall be upon the basis of 33 cents a pound. That is the basis of the compensatory rate, different in decimals only because of the waste and loss in conversion. This rate is to apply to all articles, raw wool or finished product, when the wool in the article is the element of chief value—not chief quantity, not chief quality, but when it is the element of chief value.

Mr. President, it may be all right to carry forward that raw-wool duty of 33 cents by way of compensation at the full rate on the raw product, provided the article upon which the tax is to be levied and the duty collected is all wool. If it is not all wool, then if the full rate is levied manifestly the producer will get the benefit of the protection not measured by the wool content, but measured by the content of wool plus the content of cotton or of silk or of any other fiber. Just in proportion as those foreign substances exist as compared with the major substance, namely, wool, just in that proportion will the compensatory rate allowed exceed the proper measure of compensation and be in the nature of additional protection.

I do not think that proposition requires elaboration. The committee have attempted, in some slight measure, to meet this situation by providing a certain rate when the article is worth a certain sum and a certain higher compensatory rate when the article is of a higher value. That does, to some extent, meet the situation, but to a very limited extent. I do not wish to take up too much of the time of the Senate in elaborating that, but I wish to read a letter which I have received from one whom I regard as a very high authority. The letter is from Mr. W. C. Hunneman, of Boston. Mr. Hunneman is a director of the Carded Woolen Manufacturers' Association. He is a man who, as this letter shows, has given very careful study to this aspect of the question. The letter is dated July 24 and is addressed to myself. It reads:

> One feature of the Finance Committee's wool schedule, the concealed protection in the compensatory duty, has not received the attention it deserves.

It has received little attention, Mr. President, although it is one of the most important things in this bill; it is also one of the greatest outrages in the bill. It is a subterfuge and a miserable fraud. It is an attempt to get protection under a false pretense, and it deserves the most unqualified and unmeasured denunciation, in my judgment. Mr. Hunneman continues:

> First let us take goods made of mixtures of wool and cotton. If, as is easily possible, wool is the component material of chief value in a fabric composed of 50 per cent wool and 50 per cent cotton by weight—

Of course the wool is worth twice as much as the cotton, and it is, therefore, necessarily "of chief value"—

> the compensatory duty under the Fordney-McCumber bill, and the compensatory duty actually required—

That is to say, that the manufacturer was actually entitled to by reason of the duty upon the raw material—

> assuming the value to be $1 per pound, would be as follows: Compensatory under Finance Committee bill 49 cents per pound; ad valorem 49 per cent; compensatory required 24.5 cents; ad valorem 24.5 per cent; concealed protection 24.5 cents; ad valorem 24.5 per cent.

In other words, one half of the compensatory duties that the manufacturer gets in that case, according to Mr. Hunneman, he is entitled to because of the wool that is in the fabric, and the other half he is not entitled to because it is not wool but cotton.

Mr. President, how outrageous it is to say that I shall have a duty of 33 cents upon my woolen goods by way of compensation for the 33 cents duty on wool, and then to give me 33 cents a pound upon an article in which there is 50 cents worth of cotton and 50 cents worth of wool, or in which wool constitutes one half and cotton constitutes the other half! Of course, it is concealed protection; it can not be anything else. It is stolen protection; it is sneaked-in protection. Proceeding, Mr. Hunneman says:

> It is impossible to say how small a percentage of wool might be used in a wool and cotton mixed fabric in which wool is the component material of chief value; but let us suppose it could run as low as 30 per cent of wool. Then the concealed protection would be as follows, taking cloth worth $1 per pound for illustration: Compensatory under Finance Committee bill, per pound, 49 cents; ad valorem, 49 per cent; compensatory required, 14.7 cents; ad valorem, 14.7 per cent; concealed protection, 34.3 cents a pound; ad valorem, 34.3 per cent.

I do not know how low the wool element might descend and wool still remain the element of chief value; but I know that woolens and cottons are mixed and I know that wool of the highest qualities is selling for around $1.35 per pound in the United States. That is the quotation furnished me yesterday. I have not the exact figures before me, but, on the average, it is somewhere around there. The lower grade is selling in Boston at 41 cents a pound, and the higher grade, as I have just stated. at $1.35, while cotton is still low, being at this time worth around 21 cents a pound. So it is possible that if one-third of the fabric was wool of a higher grade it might constitute the element of chief value.

This talk about all goods being up to the standard of the complete wool garment is bosh, and everybody knows it. The country is now flooded with mixed goods; I should say, upon a rough guess, that one-half and perhaps two-thirds of all the woolen goods that are upon the market to-day are mixed with cotton or some other fiber. I have no doubt that the cheaper cloths, such as poor people use, are not only made of the cheaper grades of wool but they are greatly mixed with other fibers than wool. Yet, Mr. President, however cheap the

grade may be, however much it may be diluted with cotton and other fibers, under this bill practically the same rate of compensation will be allowed upon those goods, and the coarser the quality of the goods the higher the rate of protection given by way of compensatory duty.

Proceeding, Mr. Hunneman says:

We learn from the press reports—

I will not read that, because it is personal to the Senator from Utah and it is not necessary to read it. After alluding to some statements of the Senator from Utah, calling them in question and criticising them, he says:

Furthermore, the Finance Committee bill, while theoretically making the compensatory duty on all wool goods equal to what is required, does in fact give concealed protection, and for these reasons:

On medium and low-priced wool the scoured-content duty acts as an embargo on imports—

That is exactly what I said a little while ago, that on medium and low-priced wool the scoured-content duty acts as an embargo on imports—

and medium and low-priced all-wool goods will then be manufactured by substituting wool by-products—noils and shoddy—for new wool. The Finance Committee's bill places the full compensatory duty on such goods because they are all wool. Thus the Finance Committee's bill prevents the wool manufacturer from obtaining medium and low priced wools. It also prohibits by high duties the importation of wool by-products, noils, and shoddy. It thus places the wool manufacturers in a position where they can not import any of these raw materials and gives the domestic producers of wool by-products, noils, and shoddy a monopoly of the domestic market, enabling them to force prices of these materials to excessive heights, the ultimate consumers, of course, paying in the end.

The fact is that the Finance Committee has merely camouflaged the old "wholly or in part" provision—

That was the provision in the Payne-Aldrich law—

leaving the compensatory duty on both mixed goods and all-wool goods as objectionable as in the House bill and Schedule K.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Utah?

Mr. SIMMONS. I said awhile ago I was going to make this speech without yielding. The Senator can reply when I conclude.

Mr. SMOOT. I did not intend to refer to anything the Senator himself said, but he has placed in the RECORD statements that some one wrote him, and I wish to say that the statements made in the letter are not true.

Mr. SIMMONS. I have read the statement as being that of Mr. Hunneman, but it is signed by the "Carded Woolen Manufacturers' Association, W. C. Hunneman, director." I am not vouching for the truth of all of his statements, but I do not doubt that they are substantially correct with reference to his comment on this bill.

Mr. SMOOT. That is what I wanted to make clear.

Mr. SIMMONS. The Senator is at perfect liberty to express his opinion of the veracity of Mr. Hunneman after I conclude.

Mr. SMOOT. The Senator from North Carolina knows that the compensatory duty on cloth of which the writer of the letter speaks is 26 cents a pound, and on blankets it is only 20 cents a pound, and not 49 cents. The letter is deceptive from beginning to end.

Mr. SIMMONS. Mr. Hunneman was discussing goods of a value of $1 a pound. That is the basis of his figures.

Mr. SMOOT. Then his conclusions are absolutely wrong.

Mr. SIMMONS. The Senator can point that out and write to Mr. Hunneman about it if he cares to do so.

Mr. SMOOT. I do not care anything about what Mr. Hunneman says.

Mr. SIMMONS. I presume Mr. Hunneman has also written to the Senator from Utah, because I have a copy of a letter here which is addressed to the Senator from Utah, but which has never been read into the RECORD.

Now, Mr. President, I want to put in the RECORD a statement with respect to this matter by the Carded Woolen Manufacturers' Association, whose chief office is at 146 Summer Street, Boston, Mass. I want to read only a very short part of it, but not all of it.

To the Members of the Sixty-seventh Congress:

In the revision of Schedule K the truth about the compensatory duties should be kept in mind, not only because of its importance in the wool tariff but because of the errors regarding it that have been disseminated for 55 years. The facts are as follows:

1. Specific duty on grease wool: It is impossible to adjust the compensatory duties to a grease weight specific duty on wool, any attempt to do so being certain to result in wide variations, the old Schedule K with its concealed protection being an example.

2. Specific duty on scoured content: If wool were a product of uniform value like gold, silver, and copper, with all kinds of wool selling at one price per scoured pound, a scoured content wool duty would give access to all wools on equal terms, and a compensatory duty on goods could be made approximately to balance the scoured content specific duty on wool. Instead, however, of being uniform in price, scoured wool varies widely in value—from 16 cents to $1.20 per pound on wool in large quantities at the present time—as a result of which any specific duty on the scoured content is bound to result in a very low ad valorem equivalent duty on high-priced wool—

The kind that the rich buy; a very low duty on that—

and a very high ad valorem equivalent duty on low-priced wools—

The goods that the poor people of this country buy.

Mr. President, I say that no party can stand before the American people and defend putting an ad valorem equivalent rate of 206 per cent—and that is what Mr. Hunneman says is involved here, as I shall read in a minute—upon the low-priced woolens that are purchased and used by the average man who makes his living by the sweat of his brow, whose occupation in this life is to earn its necessaries, and at the same time putting a duty of only 27 per cent ad valorem equivalent upon the high-priced woolens, which are largely purchased and used by men of means and of wealth. The thing is intolerable. The thing will not be submitted to by the American people. They will repudiate the act and repudiate the agents responsible for the act. They ought to. No more horrible wrong can be done in this world than to discriminate in the cost of the necessaries of life between the poor man and the rich man in favor of the rich. It is cowardly as well as iniquitous.

Proceeding, Mr. Hunneman says:

In the case of the 33-cent duty the variation being from 27 per cent to 206 per cent ad valorem on present values.

Now, an essential factor in the problem is that, regardless of quality or value, every pound of wool, whether new or reworked, and every pound of cotton compete with every other pound of wool, owing to the possibilities of substitution, so that when the ad valorem equivalent of the scoured content duty rises above the purchasing power of the consumer it operates as an embargo, the lower-priced cotton, shoddy, and other fibers being substituted for new wool in order to keep the price of the cloth within the consumer's purchasing power.

That is just what will happen, in my judgment.

Then the theoretically correct compensatory duty ceases to be a compensatory duty, and, combined with the protective rate, operates as an embargo on imports of goods. This fact makes it impossible to adjust a compensatory duty to the increased cost of wool resulting from a scoured content wool duty.

Mr. President, before that article concludes there is a statement that last December this association, through its representatives, appeared before the Finance Committee and suggested an amendment to the wool schedule to cure this difficulty, and in order to accomplish that result they recommended that the compensatory part of the duty on mixed goods be made proportionate to the per cent of wool in the goods. Unless I change my mind, or unless somebody else offers it, I shall offer such an amendment here. I hope somebody else will, because I have discovered the utter futility of amendments coming from this side of the Chamber. To be successful they must come from the other side, in order that the Republican Party may get such credit as there is in the reduction of these rates, or the change and remedy of these unjust arrangements. I hope some one on the other side will offer an amendment by which the compensatory rate shall be imposed upon the wool content of the garment or of the yarn, because I think it will to some extent correct this evil, and it is an evil which ought to be corrected. It is simple justice to the people of this country, and it can be done without injustice to the wool manufacturers.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. SIMMONS. Yes; I yield.

Mr. LENROOT. I will say that that is the amendment now pending, making the basis of the compensatory duty the wool content of the article.

Mr. SIMMONS. Did the Senator offer it?

Mr. LENROOT. I did and it is now pending.

Mr. SIMMONS. I did not know that. I was not present when it was offered. It had not been called to my attention. It is a very just amendment, and I hope it will prevail. It will help this situation wonderfully. It will eliminate this concealed protection, and if there is one thing we ought to do it is that we permit the people of the country to know exactly what rate of protection we are giving to these interests, and let them know exactly what rate they are going to have to pay upon a certain product, whether that duty is upon the product itself or whether it is smuggled in and camouflaged and screened in the way that these compensatory duties are arranged by the committee.

APPENDIX.

THE TRUTH ABOUT COMPENSATORY WOOL DUTIES.

To the Members of the Sixty-seventh Congress:

In the revision of Schedule K the truth about the compensatory duties should be kept in mind, not only because of its importance in the wool tariff but because of the errors regarding it that have been disseminated for 55 years. The facts are as follows:

1. Specific duty on grease wool: It is impossible to adjust the compensatory duties to a grease-weight specific duty on wool, any attempt to do so being certain to result in wide variations, the old Schedule K with its concealed protection being an example.

2. Specific duty on scoured content: If wool were a product of uniform value like gold, silver, and copper, with all kinds of wool selling at one price per scoured pound, a scoured-content wool duty would give access to all wools on equal terms, and a compensatory duty on goods could be made approximately to balance the scoured-content specific duty on wool. Instead, however, of being uniform in price, scoured wool varies widely in value (from 16 cents to $1.20 per pound on wool in large quantities at the present time), as a result of which any specific duty on the scoured content is bound to result in a very low ad valorem equivalent duty on high-priced wool and a very high ad valorem equivalent duty on low-priced wools; in the case of the 33-cent duty, the variation being from 27 per cent to 206 per cent ad valorem on present values.

Now, an essential factor in the problem is that, regardless of quality or value, every pound of wool, whether new or reworked, and every pound of cotton compete with every other pound of wool, owing to the possibilities of substitution, so that when the ad valorem equivalent of the scoured-content duty rises above the purchasing power of the consumer, it operates as an embargo, the lower priced cotton, shoddy, and other fibers being substituted for new wool in order to keep the price of the cloth within the consumer's purchasing power. Then the theoretically correct compensatory duty ceases to be a compensatory duty, and, combined with the protective rate, operates as an embargo on imports of goods. This fact makes it impossible to adjust a compensatory duty to the increased cost of wool resulting from a scoured-content wool duty.

3. Ad valorem duty on wool: If the percentage of increase in the American cost of converting wool into cloth were equal to the ad valorem rate on wool, both being, say, for illustration, 50 per cent, an ad valorem duty of 50 per cent on goods would provide both compensation for the wool duty and protection to the wool manufacturer without any variable factor whatsoever, regardless of the relative proportions of wool cost and conversion cost that make up the total cost of the goods.

It is generally believed that the American cost of converting wool into wool goods is double that of the foreign cost; that is, 100 per cent higher, while the ad valorem equivalent of the Payne-Aldrich wool duty was about 50 per cent. This difference of 50 per cent between the increase of the conversion cost and a duty of 50 per cent on wool, combined with the variation in the relative proportions of wool cost and conversion cost of goods, introduces the only variable factor in the adjustment of a compensatory duty in an ad valorem wool schedule.

Substantially all variations in the relative proportions of wool cost and conversion cost of goods are included within the extremes of 40 per cent for wool and 60 per cent for conversion, and 60 per cent for wool and 40 per cent for conversion. Let us assume that an ad valorem tariff on wool and wool goods is based on relative costs of 50 per cent for wool and 50 per cent for conversion. Let us also assume that the wool duty is 50 per cent ad valorem and the American conversion cost is 100 per cent higher than the foreign. Then the compensatory rate on goods costing 50 per cent for wool and 50 per cent for conversion would be 25 per cent ad valorem, and the protective rate 50 per cent, making the total duty on goods 75 per cent ad valorem.

Under such a wool schedule the one extreme of 40 per cent for cost of wool and 60 per cent for cost of conversion means that 10 per cent of the total cost which the tariff assumes to be the wool cost, requiring a protection (compensation) of 50 per cent ad valorem, is in fact conversion cost requiring a protection of 100 per cent ad valorem; that is, this 10 per cent of the total cost receives a protection 50 per cent less than is required. Now 50 per cent of 10 per cent is 5 per cent, so that the extreme of 40 per cent for wool cost and 60 per cent for conversion cost would result in the 75 per cent ad valorem being imposed on goods that actually required 80 per cent.

In like manner at the other extreme of 60 per cent for wool cost and 40 per cent for conversion cost, 10 per cent of the total cost on which the tariff places a protection of 100 per cent ad valorem on the assumption that it is conversion cost is in fact wool cost requiring a protection of 50 per cent ad valorem, this resulting in 75 per cent ad valorem being placed on these goods which require only 70 per cent.

Thus under the assumed relations between foreign and American costs, the actual duty collected would not vary more than 5 per cent from what is required, while the great bulk of wool goods would come very close to the assumed proportions of wool and conversion costs, and thus be subject to only negligible variations.

THE TRUTH ABOUT COMPENSATORY DUTIES.

From the above it is plain that a compensatory duty on goods can not be made to balance either a grease weight or scoured weight specific duty on wool, while a compensatory duty can be easily adjusted to balance an ad valorem duty on wool with but negligible variations.

SUPPRESSING THE TRUTH FOR SIXTY YEARS.

Why have the reverse of the facts about compensatory duties on wool goods been paraded before the public since 1867 in order to make the uninformed believe that falsehood is truth, and truth is falsehood? It is because specific duties on wool give unfair profits to favored interests, while ad valorem duties make all equal under the law.

From 1867 to 1913 the worsted spinners spread the error in order to maintain their special privilege under the grease weight specific wool duty, and did this in spite of the astounding degree of concealed protection in the four to one compensatory duty under Schedule K. (See pp. 3624–3626, 1922 hearings before Finance Committee for illustrations of the protection concealed by the compensatory duty in the grease weight specific wool tariff.) The extent of their special privilege under that wool tariff is shown by the fact that from 1870 to 1910 the value of raw materials used in the worsted mills increased 1,352 per cent while the raw materials used by their carded woolen competitors decreased 35 per cent during the same period.

Since the agitation for the specific duty on the scoured content was started in 1909 the same misstatement about the compensatory duty in an ad valorem schedule has been circulated by the woolgrowers in order to promote the 33-cent scoured-content form of special privilege, which places an embargo on a large part of the foreign supply of wool by duties whose ad valorem equivalents run up as high as 200 per cent or more.

Some among each of these two groups of seekers of special privilege have deliberately sought to mislead others on this question. Many have carried on the propaganda in ignorance of the truth. And it goes without saying that the error was readily accepted by the vast majority of legislators and the public, who were neither worsted spinners nor woolgrowers, and who neither had the truth laid before them nor had the time to dig it out for themselves.

A particularly flagrant and wholly inexcusable form of the error is now being circulated by the Tariff Commission (Recent Tendencies with Reference to Wool Tariff Aspects, by L. G. Connor, p. 13), where the variations in relative costs of wool and conversion are exaggerated, without even the pretense of supporting the claim by evidence and without referring either to the facts we have stated above, which were accessible to the commission, or to the impossibility of adjusting the compensatory duty to a specific duty on wool.

COMPENSATORY ON MIXED GOODS.

We have thus far referred only to goods made wholly of wool. The compensatory duty on goods made of mixtures of wool and other fibers presents a special problem that requires solution. The phrase "wholly or in part of wool" in the old Schedule K, which is also in the present House bill, resulted in a scandalous excess of the compensatory duty on mixed goods.

The phrase "wholly or in chief value of wool," which the Finance Committee has substituted in the present bill, is a very inadequate remedy, leaving, as it does, huge amounts of protection concealed in the compensatory duty.

To avoid this defect we recommend that the compensatory part of the ad valorem duty on mixed goods be made proportionate to the percentage of wool in the weight of the goods, a recommendation that we made to the Finance Committee on December 14, 1921, and which has been ignored by both the Finance Committee and the Tariff Commission.

Respectfully,

CARDED WOOLEN MANUFACTURERS' ASSOCIATION,
146 Summer Street, Boston, Mass.

JULY 25, 1922.

BOSTON, MASS., *July 24, 1922.*

Hon. F. M. SIMMONS,
United States Senate, Washington, D. C.

DEAR SIR: One feature of the Finance Committee's wool schedule, the concealed protection in the compensatory duty, has not received the attention it deserves.

First, let us take goods made of mixtures of wool and cotton. If, as is easily possible, wool is the component material of chief value in a fabric composed of 50 per cent wool and 50 per cent cotton, by weight, the compensatory duty under the Fordney-McCumber bill and the compensatory duty actually required, assuming the value to be $1 per pound, would be as follows:

	Compensatory.	
	Cents per pound.	Per cent ad valorem.
Compensatory under Finance Committee bill	49	49
Compensatory required	24.5	24.5
Concealed protection	24.5	24.5

It is impossible to say how small a percentage of wool might be used in a wool and cotton mixed fabric in which wool is the component material of chief value, but let us suppose that it could run as low as 30 per cent of wool. Then the concealed protection would be as follows, taking cloth worth $1 per pound for illustration:

	Compensatory.	
	Cents per pound.	Per cent ad valorem.
Compensatory under Finance Committee bill	49	49
Compensatory required	14.7	14.7
Concealed protection	34.3	34.3

We learn from the press reports that Senator SMOOT claimed, with a great flourish, on Saturday that no provision similar to the "wholly or in part" provision of the old Schedule K and the House bill was in the Finance Committee's wool schedule. The above comparisons show plainly that Senator SMOOT is mistaken.

Senator SMOOT's story about the cotton blankets with a wool selvage being subject to the full compensatory rate represents an extreme case of no real importance in the trade. For all practical purposes the degree of concealed protection in the Finance Committee's compensatory rates is as bad as in the House bill or the Payne-Aldrich Schedule K.

Furthermore, the Finance Committee's bill, while theoretically making the compensatory duty on all wool goods equal to what is required, does in fact give concealed protection, and for these reasons:

On medium and low-priced wool the scoured content duty acts as an embargo on imports, and medium and low-priced all-wool goods will then be manufactured by substituting wool by-products, noils, and shoddy for new wool. The Finance Committee's bill places the full compensatory duty on such goods because they are all wool. Thus the Finance Committee's bill prevents the wool manufacturers from obtaining medium and low priced wools. It also prohibits by high duties the importation of wool by-products, noils, and shoddy. It thus places wool manufacturers in a position where they can not import any of these raw materials and gives the domestic producers of wool by-products, noils, and shoddy a monopoly of the domestic market, enabling them to force prices of these materials to excessive heights, the ultimate consumers, of course, paying in the end.

The fact is that the Finance Committee has merely camouflaged the old "wholly or in part" provision, leaving the compensatory duty on both mixed goods and all-wool goods as objectionable as in the House bill and Schedule K.

In the interest of honest tariff revision, these facts should be made known at once.

Respectfully,

CARDED WOOLEN MANUFACTURERS' ASSOCIATION,
W. C. HUNNEMAN, *Director.*

Mr. LENROOT. I demand the yeas and nays on my amendment, Mr. President.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Wisconsin [Mr. LENROOT] to the committee amendment as modified. On that question the yeas and nays are demanded.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Vermont [Mr. DILLINGHAM], which I transfer to the senior Senator from Rhode Island [Mr. GERRY], and vote "yea."

Mr. McCUMBER (when his name was called). I transfer my pair with the junior Senator from Utah [Mr. KING] to the junior Senator from North Dakota [Mr. LADD], and vote "nay."

Mr. NEW (when his name was called). Transferring my pair with the junior Senator from Tennessee [Mr. McKELLAR] to the junior Senator from Washington [Mr. POINDEXTER], I vote "nay."

Mr. ROBINSON (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. SUTHERLAND] to the Senator from Missouri [Mr. REED], and vote "yea."

Mr. WALSH of Montana. I transfer my pair with the Senator from New Jersey [Mr. FRELINGHUYSEN] to the Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. WATSON of Indiana (when his name was called). I transfer my general pair with the senior Senator from Mississippi [Mr. WILLIAMS] to the junior Senator from Vermont [Mr. PAGE] and vote "nay."

The roll call was concluded.

Mr. STERLING. I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Maryland [Mr. WELLER] and vote "nay."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON]; and

The Senator from California [Mr. JOHNSON] with the Senator from Georgia [Mr. WATSON].

Mr. McLEAN. I transfer my pair with the senior Senator from Montana [Mr. MYERS] to the senior Senator from Pennsylvania [Mr. CROW] and vote "nay."

Mr. HALE. I transfer my pair with the Senator from Tennessee [Mr. SHIELDS] to the Senator from Delaware [Mr. DU PONT] and vote "nay."

Mr. JONES of Washington. The senior Senator from Virginia [Mr. SWANSON] is necessarily absent. I am paired with him for this afternoon, but I understand that if present he would vote as I shall vote, and therefore I vote. I vote "yea."

Mr. HARRIS. I transfer my pair with the junior Senator from New York [Mr. CALDER] to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

I wish to state that my colleague [Mr. WATSON of Georgia] is absent on account of illness. He is paired with the Senator from California [Mr. JOHNSON]. If my colleague were present he would vote "yea."

Mr. DIAL. I am paired with the senior Senator from Michigan [Mr. TOWNSEND]. I understand that if he were present he would vote as I shall vote, and therefore I feel at liberty to vote. I vote "yea."

Mr. JONES of New Mexico. I transfer my general pair with the Senator from Maine [Mr. FERNALD] to the Senator from Nevada [Mr. PITTMAN] and vote "yea."

The result was announced—yeas 25, nays 33, as follows:

YEAS—25.

Borah	Heflin	Overman	Underwood
Capper	Jones, N. Mex.	Pomerene	Wadsworth
Caraway	Jones, Wash.	Robinson	Walsh, Mass.
Cummins	Kellogg	Sheppard	Walsh, Mont.
Dial	Lenroot	Simmons	
Glass	McCormick	Stanley	
Harris	Nelson	Trammell	

NAYS—33.

Broussard	Harreld	New	Spencer
Bursum	Kendrick	Newberry	Stanfield
Cameron	Keyes	Nicholson	Sterling
Colt	Lodge	Oddie	Warren
Curtis	McCumber	Pepper	Watson, Ind.
Ernst	McKinley	Phipps	Willis
France	McLean	Ransdell	
Gooding	McNary	Shortridge	
Hale	Moses	Smoot	

NOT VOTING—38.

Ashurst	Fernald	McKellar	Shields
Ball	Fletcher	Myers	Smith
Brandegee	Frelinghuysen	Norbeck	Sutherland
Calder	Gerry	Norris	Swanson
Crow	Harrison	Owen	Townsend
Culberson	Hitchcock	Page	Watson, Ga.
Dillingham	Johnson	Pittman	Weller
du Pont	King	Poindexter	Williams
Edge	Ladd	Rawson	
Elkins	La Follette	Reed	

So Mr. LENROOT's amendment to the amendment of the committee was rejected.

Mr. LENROOT. I now move to amend, on line 7, page 146, by inserting after the words "49 cents per pound" the words "upon the wool content thereof."

The PRESIDING OFFICER. The Secretary will state the amendment.

The READING CLERK. On page 146, line 7, after the word "pound" where it appears the second time, insert the words "upon the wool content thereof," so that if amended it will read:

Valued at more than 80 cents per pound, 49 cents per pound upon the wool content thereof, and 50 per cent ad valorem.

Mr. LENROOT. I doubt very much whether there were many Senators who voted against the amendment just rejected who knew what they were voting upon, and in offering this amendment I want to ascertain whether the Senate of the United States is going deliberately and willfully to impose a hidden protective duty under the guise of a compensatory duty to the woolgrower. That is the question.

One of the great scandals of the Payne-Aldrich law was that while it purported to give to the woolgrower 11 cents a pound in the grease, as a matter of fact it gave 5, 6, or 7 cents a pound, and yet when they came to the cloth they gave the manufacturer a compensatory duty based upon the assumption that the woolgrower had received 11 cents per pound.

Another of the scandals of that law was just what is involved here, that it assumed to give a full compensatory duty upon an article when only a part of it was made of wool. Under this amendment there can be no excuse, as was urged in regard to the amendment just voted down, that the committee had made allowances for other material, and therefore the rate was fixed at 40 cents compensatory instead of 49 cents. But in this clause the committee assumes that every part of the fabric is composed of pure wool, and therefore it gives 49 cents a pound. All my amendment provides is that if it is pure wool, there shall be 49 cents a pound, there shall be compensation because of the 33 cents a pound given to the woolgrower, but if a part of the fabric is not wool, that we shall not commit a fraud upon the public by giving 49 cents a pound upon something upon which the manufacturer has not paid a cent of duty.

I wonder how the sheep growers on this side of the aisle are going to justify voting against this amendment? How are they going to justify increasing the price of woolen clothing to the farmers of America, when the vote they will cast will merely increase the profit of the manufacturer, and not give one cent additional compensatory duty to them?

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Utah?

Mr. LENROOT. I yield.

Mr. SMOOT. I see no objection whatever to the amendment to this particular paragraph. As the Senator said, there is a difference between this and the other. This takes the full compensatory duty of 49 cents, and is supposed to be all wool. I have no objection, personally, to agreeing to the Senator's amendment in this paragraph of this schedule.

Mr. LENROOT. I propose to follow it up wherever the full 49 cents compensation is provided in the bill.

Mr. SMOOT. The next paragraph provides for 39 cents.

Mr. LENROOT. I say, wherever it is 49 cents, I propose to offer the amendment.

Mr. SMOOT. I do not see a particle of objection to the amendment offered by the Senator in this paragraph.

Mr. LENROOT. I am very glad indeed the Senator from Utah has taken that position.

Mr. SMOOT. I will say to the Senator that the Senator from Utah has tried to write this bill so that the manufacturer would not get one single percentage of hidden protection, and I think the Senator from Wisconsin will agree to that.

Mr. LENROOT. I am not criticizing the Senator.

Mr. SMOOT. Therefore I can not take any other position than that I have taken, and, as I have stated upon the floor, I

do not want any hidden protection. I have no objection to the amendment offered by the Senator from Wisconsin.

Mr. LENROOT. I am glad indeed that we at least have accomplished something, then, by this debate and the procedure this morning. In the illustration I gave, this amendment will mean a saving of 20 per cent ad valorem upon one cloth I cited.

Mr. SMOOT. That, of course, would not fall in this bracket.

Mr. LENROOT. There will be at least less duty upon the articles falling in this paragraph, with the low rate, than in the next one.

Mr. SMOOT. I will say to the Senator that there is one thing in which the manufacturer would be at a disadvantage. We put 10 cents a pound on long-staple cotton, and if the goods were made of long-staple cotton he would be at that disadvantage.

Mr. LENROOT. Not under this amendment. With this amendment in the paragraph the manufacturer would still have the advantage of being able to use wool waste, of being able to use wool extract, and still get the 49 cents a pound compensatory duty.

Mr. SMOOT. The only trouble with that is that they can not use those extracts in making a thread so fine as to go in this bracket. During the operation of the Payne-Aldrich law, in 1910, the cloth averaged 60 cents a pound, and many in the second bracket averaged about 65 cents a pound. But they can not make the thread that would make this class of prime dress goods, because these are the finest there are. But wherever the cotton warp is used they would get that compensatory duty upon the cotton warp. With the Senator's amendment they would not get any compensatory duty upon the cotton warp, although the cotton warp no doubt will be made from long-staple cotton, in order to get the fineness of the thread. But I am perfectly willing to go as far as the Senator has gone in this paragraph, and I see no objection whatever to accepting the amendment.

Mr. LENROOT. While we are on that subject, will the Senator also agree to a like limitation in the next paragraph?

Mr. SMOOT. Yes; I am perfectly willing to do that.

Mr. LENROOT. Then, perhaps, I will modify my statement and say that if we can get that in the illustration I have given we will have saved at least 20 per cent ad valorem on the price of cloth.

Mr. SMOOT. So that there may be no misunderstanding, on the lower grade cloths, in the next paragraph, we give only 26 cents, and not 49 cents.

Mr. LENROOT. I am speaking of the 49-cent rate.

Mr. SMOOT. I will say to the Senator that 90 per cent of the cloths affected by the 49-cent rate will be all wool and will not be affected by the Senator's amendment at all, but if for any reason there should be a cloth where they could not get the thread fine enough and stout enough for warp and they made cotton warp of it, then, of course, they would lose that amount, and I am perfectly willing that they should.

Mr. LENROOT. Very well. I am very glad to have that concession on the part of the Senator from Utah.

Mr. WALSH of Massachusetts. Mr. President, may I ask a question? Do I understand the amendment of the Senator from Wisconsin has been accepted as to the second bracket of paragraph 1108, but has not been accepted as to the first bracket?

Mr. SMOOT. The first bracket provides 40 cents, but the second bracket provides 49 cents.

Mr. WALSH of Massachusetts. Why is it not made to apply to the first bracket as well as to the second bracket?

Mr. SMOOT. Because we only have a compensatory duty of 40 cents in the first bracket instead of 49 cents.

Mr. WALSH of Massachusetts. But the question of how much wool is included in the product is as important in the first bracket as in the second.

Mr. SMOOT. No; in the cloth in the first bracket they use a great deal more woolen waste and different classes of waste than in the cloth covered by the second bracket. The goods in the second bracket are generally the very finest fabrics that are made of wool.

Mr. WALSH of Massachusetts. The only purpose of any compensatory duty is to compensate the manufacturer for the wool he puts in the cloth. What is the objection to applying the amendment of the Senator from Wisconsin to the first bracket as well as to the second bracket?

Mr. SMOOT. Because of the fact that we have not given 49 cents in the first bracket. We have given 40 cents there and not 49 cents.

Mr. WALSH of Massachusetts. I shall not prolong the discussion now. I can not see any difference, however.

Mr. SMOOT. The Senator and I disagree; that is all. If I had the time I would be glad to go into detail and tell the Senator why.

Mr. McCORMICK obtained the floor.

Mr. SMOOT. Will the Senator allow us to have a vote on the pending amendment?

Mr. McCORMICK. I shall be very glad to yield for a vote, but I wish then to speak very briefly.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. LENROOT] to the amendment of the committee.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now recurs upon the amendment of the committee as amended.

Mr. WALSH of Massachusetts. There will be some discussion of that.

The PRESIDING OFFICER. The Chair will state to the Senator from Massachusetts that the Senator from Illinois has the floor.

Mr. WALSH of Massachusetts. I am leaving the floor to the Senator from Illinois but explaining why the vote can not be taken now. I am only explaining why I do not want the question put while he has the floor.

SENATOR JAMES A. REED.

Mr. McCORMICK. Mr. President, at the hazard of being criticized for filibustering for a few moments pending the vote, I venture to invite the consideration of those of my colleagues who are on the floor to some aspects of the primary elections which are to be held next Tuesday. Hitherto my very dear friend from Mississippi [Mr. HARRISON], who is absent, has nearly monopolized consideration of primary contests and results.

Without seeking to read into next Tuesday's primaries in advance of the nominations therein to be made a meaning which none of us can forecast, it is interesting to realize that in some of them we shall learn whether the voters—and I speak more particularly of the Democratic voters—may choose for themselves their nominee, or whether the nomination shall be made conformably with the judgment of the one-time arbiter of Democratic destinies. That, I say, notably in Missouri, will be determined next Tuesday.

If I had been here the other day when allusion to the Missouri primary was made, I should not have sought this opportunity to speak. Far be it from me to seek to pass judgment upon the qualifications of a candidate in the Democratic primary in Missouri. I am informed and I am led to believe that Mr. Breckenridge Long is a most estimable gentleman, but the issue appears to be REED. JAMES A. REED has truly great qualities, but it may be that the Democracy of Missouri may decide that the usefulness of JAMES A. REED is past. I do not know. If he be nominated, I shall be joined to those who, upon the domestic issues which to-day divide us, will oppose the reelection of Senator REED. But, Mr. President, at this time, looking back over the months in which I have served in the Senate with JAMES A. REED, I should count myself a poor American if I did not find occasion to say that if his opponents to-day hold that his usefulness as a Senator is gone, there was a time when in his judgment, as in mine, the sovereignty and the liberties of the Republic were imperiled, JAMES A. REED showed himself an indomitable American, a man of incomparable courage.

I trust my colleagues on the other side of the Chamber, some of whom have borne witness to his great qualities and others who will doubtless do so, will not resent what may appear to be an intrusion in a contest in the Democratic Party. I should hold myself ungenerous and unappreciative of his great services if I had not sought and found an opportunity to bear witness to the courage, self-sacrifice, and devotion with which JAMES A. REED served his country in an hour of danger. His name will live when those of most of us are forgotten.

Mr. CARAWAY. Mr. President, I merely wish to say that I presume the Senator from Illinois, by his laborious argument and oratory commending the Senator from Missouri [Mr. REED] for being a true American, referred to the time when the Senator from Missouri so very vigorously opposed the so-called four-power pact. I think the country agreed with him, although the Senator from Illinois voted the other way.

Mr. STANLEY. Mr. President, I am quite sure the Senator from Illinois referred to Senator REED's bitter fight against the four-power pact and his splendid fight for the soldiers' bonus, and his sound Democracy. REED is so superbly equipped for service here that he commands that much deference even from those who disagree with him.

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

Mr. WALSH of Massachusetts. Mr. President, I move to amend the committee amendment on page 146, paragraph 1108, by striking out, in line 6, the numeral "50" and inserting "35"; in line 7, by striking out the numeral "50" and inserting the numeral "35"; and in line 10, by striking out the numeral "50" and inserting the numeral "35," so as to make the paragraph read:

PAR. 1108. Woven fabrics, weighing not more than 4 ounces per square yard, wholly or in chief value of wool, valued at not more than 80 cents per pound, 40 cents per pound and 35 per cent ad valorem; valued at more than 80 cents per pound, 49 cents per pound and 35 per cent ad valorem: *Provided*, That if the warp of any of the foregoing is wholly of cotton or other vegetable fiber, the duty shall be 39 cents per pound and 35 per cent ad valorem.

In brief, the amendment proposes to substitute the protective-duty rates now the law for the excessive and high rates named in the bill. Whatever votes have been had heretofore have been with reference to the compensatory rates named in the Senate committee bill. There has been no vote taken to reduce the rates named in the committee amendment. The evidence presented this morning tends to show that there have been no records of imports. The report of the Tariff Commission and the comparison of the prices of foreign and domestic cloths covered by this paragraph do not justify a rate higher than 35 cents.

Upon my amendment to the amendment I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement as before in reference to my pair and its transfer, I vote "nay."

Mr. HARRIS (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "yea."

Mr. McCUMBER (when his name was called). Transferring my pair as on the previous vote, I vote "nay."

Mr. McLEAN (when his name was called). Making the same announcement as before with regard to my pair and its transfer, I vote "nay."

Mr. NEW (when his name was called). Repeating the announcement which I made on previous ballots as to the transfer of my pair, I vote "nay."

Mr. ROBINSON (when his name was called). Announcing the same pair and transfer as on the last vote, I vote "yea."

Mr. WALSH of Montana (when his name was called). Transferring my pair as on the last roll call, I vote "yea."

Mr. WATSON of Indiana (when his name was called). Making the same announcement as before in reference to my pair and its transfer, I vote "nay."

The roll call was concluded.

Mr. JONES of New Mexico. Making the same announcement as to my pair and its transfer as on the previous vote, I vote "yea."

Mr. DIAL. I am paired with the Senator from Michigan [Mr. TOWNSEND], but I transfer that pair to the Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. GLASS. Making the same announcement as to my pair and its transfer as on the preceding vote, I vote "yea."

Mr. WATSON of Georgia. I am paired with the Senator from California [Mr. JOHNSON]. Being unable to obtain a transfer of my pair, I refrain from voting.

Mr. CURTIS. I am requested to announce the following pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON]; and

The Senator from South Dakota [Mr. STERLING] with the Senator from South Carolina [Mr. SMITH].

The result was announced—yeas 17, nays 36, as follows:

YEAS—17.

Caraway	Jones, N. Mex.	Simmons	Walsh, Mass.
Dial	Overman	Stanley	Walsh, Mont.
Glass	Pomerene	Swanson	
Harris	Robinson	Trammell	
Heflin	Sheppard	Underwood	

NAYS—36.

Brandegee	Cameron	Cummins	Gooding
Broussard	Capper	Curtis	Hale
Bursum	Colt	Ernst	Harreld
Jones, Wash.	McCumber	Newberry	Spencer
Kellogg	McKinley	Oddie	Stanfield
Kendrick	McLean	Pepper	Wadsworth
Lenroot	McNary	Phipps	Warren
Lodge	Moses	Shortridge	Watson, Ind.
McCormick	New	Smoot	Willis

NOT VOTING—43.

Ashurst	Fletcher	McKellar	Rawson
Ball	France	Myers	Reed
Borah	Frelinghuysen	Nelson	Shields
Calder	Gerry	Nicholson	Smith
Crow	Harrison	Norbeck	Sterling
Culberson	Hitchcock	Norris	Sutherland
Dillingham	Johnson	Owen	Townsend
du Pont	Keyes	Page	Watson, Ga.
Edge	King	Pittman	Weller
Elkins	Ladd	Poindexter	Williams
Fernald	La Follette	Ransdell	

So the amendment of Mr. WALSH of Massachusetts to the committee amendment was rejected.

Mr. WALSH of Massachusetts. Mr. President, I presume it is futile to attempt to lower the protective rates which are carried in the pending bill, but I am still going to persist. I move, on page 146, paragraph 1108, lines 6, 7, and 10, before the words "per cent," to substitute in each instance the numeral "40" for the numeral "50." If that motion prevails, the protective duty levied on the fabrics embraced in this paragraph will be 40 per cent instead of 50 per cent.

Mr. LENROOT. I desire to ask the Senator from Utah has the committee reduced the rate of duty carried in this paragraph from 55 per cent to 50 per cent in each instance?

Mr. SMOOT. Yes; the committee amendment now provides for that reduction.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Massachusetts [Mr. WALSH] to the committee amendment.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the committee amendment as amended.

Mr. WALSH of Massachusetts. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LENROOT. The vote is now on the committee amendment, as I understand, Mr. President?

The PRESIDING OFFICER. The question is on the committee amendment as amended.

Mr. LENROOT. I wish to say just a word in explanation of the vote that I shall cast.

My opinion is that the committee amendment fixes the rates, both compensatory and protective, too high, but it is also my opinion that the rates proposed by the House provision are too low.

I shall, therefore, vote for the committee amendment as between the two propositions, although I still think the Senate committee amendment imposes excessive rates.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. DIAL (when his name was called). Making the same announcement as to my pair and its transfer as on former ballots, I vote "nay."

Mr. HALE (when his name was called). Making the same announcement as before with regard to my pair and its transfer, I vote "yea."

Mr. HARRIS (when his name was called). Making the same announcement as heretofore with regard to my pair and its transfer, I vote "nay."

Mr. McCUMBER (when his name was called). Transferring my pair as on previous votes, I vote "yea."

Mr. McLEAN (when his name was called). Making the same announcement as before with regard to my pair and its transfer, I vote "yea."

Mr. NEW (when his name was called). Repeating the announcement as to the transfer of my pair, I vote "yea."

Mr. ROBINSON (when his name was called). Announcing the same pair and transfer as on the last vote, I vote "nay."

Mr. WALSH of Montana (when his name was called). Transferring my pair as heretofore announced, I vote "nay."

Mr. WATSON of Indiana (when his name was called). Making the same announcement as before with regard to my pair and its transfer, I vote "yea."

The roll call was concluded.

Mr. JONES of New Mexico. Making the same announcement as to my pair and its transfer as on the last vote, I vote "nay."

Mr. GLASS. Making the same announcement as to my pair and its transfer as on the preceding vote, I vote "nay."

Mr. WATSON of Georgia. I am paired with the Senator from California [Mr. JOHNSON]. Being unable to obtain a transfer, I abstain from voting. If allowed to vote I should vote "nay."

Mr. CURTIS. I have been requested to announce the following general pairs:

The Senator from South Dakota [Mr. STERLING] with the Senator from South Carolina [Mr. SMITH];

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON].

The result was announced—yeas 35, nays 19, as follows:

YEAS—35.

Brandegee	Gooding	McLean	Shortridge
Broussard	Hale	McNary	Smoot
Bursum	Harreld	Moses	Spencer
Cameron	Jones, Wash.	New	Stanfield
Capper	Kendrick	Newberry	Wadsworth
Colt	Lenroot	Oddie	Warren
Cummins	Lodge	Pepper	Watson, Ind.
Curtis	McCumber	Phipps	Willis
Ernst	McKinley	Ransdell	

NAYS—19.

Caraway	Jones, N. Mex.	Robinson	Trammell
Dial	Kellogg	Sheppard	Underwood
Glass	Nelson	Simmons	Walsh, Mass.
Harris	Overman	Stanley	Walsh, Mont.
Heflin	Pomerene	Swanson	

NOT VOTING—42.

Ashurst	Fletcher	McCormick	Reed
Ball	France	McKellar	Shields
Borah	Frelinghuysen	Myers	Smith
Calder	Gerry	Nicholson	Sterling
Crow	Harrison	Norbeck	Sutherland
Culberson	Hitchcock	Norris	Townsend
Dillingham	Johnson	Owen	Watson, Ga.
du Pont	Keyes	Page	Weller
Edge	King	Pittman	Williams
Elkins	Ladd	Poindexter	
Fernald	La Follette	Rawson	

So the amendment of the committee as amended was agreed to.

The PRESIDING OFFICER (Mr. ODDIE in the chair). The next amendment of the committee will be stated.

The next amendment was, on page 146, after line 10, to strike out:

PAR. 1109. Woven fabrics, weighing more than 4 ounces per square yard, wholly or in part of wool, valued at not more than 75 cents per pound, 20 cents per pound and, in addition thereto, 18 per cent ad valorem; valued at more than 75 cents but not more than $1.25 per pound, 25 cents per pound and, in addition thereto, 21 per cent ad valorem; valued at more than $1.25 but not more than $2.50 per pound, 30 cents per pound and, in addition thereto, 24 per cent ad valorem; valued at more than $2.50 per pound, 36 cents per pound and, in addition thereto, 27½ per cent ad valorem.

And in lieu thereof to insert:

PAR. 1109. Woven fabrics, weighing more than 4 ounces per square yard, wholly or in chief value of wool, valued at not more than 60 cents per pound, 26 cents per pound and 40 per cent ad valorem; valued at more than 60 cents but not more than 80 cents per pound, 40 cents per pound and 50 per cent ad valorem; valued at more than 80 cents but not more than $1.50 per pound, 49 cents per pound and 50 per cent ad valorem; valued at more than $1.50 per pound, 49 cents per pound and 55 per cent ad valorem.

Mr. SMOOT. Mr. President, in the first place I want to modify the committee amendment by striking out "55" and inserting "50" on line 5, page 147. Then I will say to the Senator from Wisconsin [Mr. LENROOT] that when he offers his amendment there will be two places in the paragraph to which it will apply, and there will be no objection to that amendment.

Mr. WALSH of Massachusetts. Why not have that modification made, and have the record complete in that respect?

Mr. SMOOT. The Senator can offer his amendment now.

Mr. LENROOT. I move, in line 4, page 147, after the word "pound," to insert the words "upon the wool content thereof."

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The READING CLERK. On page 147, line 4, after the word "pound," it is proposed to insert "upon the wool content thereof," so that it will read:

Forty-nine cents per pound upon the wool content thereof, and 50 per cent ad valorem.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin to the amendment of the committee as modified.

The amendment to the amendment was agreed to.

Mr. LENROOT. Now, in line 5, after the word "pound," I offer the same amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The READING CLERK. On page 147, line 5, after the word "pound," where it appears the second time, it is proposed to insert the words "upon the wool content thereof."

The PRESIDING OFFICER. The question is upon agreeing to the amendment offered by the Senator from Wisconsin to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. SMOOT. Mr. President, this paragraph provides duties upon all woven fabrics weighing more than 4 ounces per square yard. The paragraph that we have just adopted covers the lightweight dress goods. It is true that some flannels fall within paragraph 1108, but the great bulk of flannels made not only in this country but in foreign lands fall under this paragraph. Ninety-five per cent of the goods falling under this paragraph, however, are what are known as cloths for the making of clothing.

The Senate will notice that the compensatory duty begins with 26 cents per pound on the first bracket; on the second it is 40 cents per pound; and on the other two brackets it is 49 cents per pound, modified by the amendment of the Senator from Wisconsin [Mr. LENROOT].

Mr. President, I sent to five of the principal woolen mills in the United States and asked them to give me samples of cloth that they made at the opening in April, 1920, at the opening in July, 1921, and at the opening in February, 1922. When I say "opening" I speak of the opening of the samples for sale. I have those samples here from five different mills, ranging from the finest of cloth to the heaviest 27-ounce overcoating; and while it will take too long a time to call attention to each of the samples submitted I am going to take one or two samples of cloth from each of the mills and call attention to the prices of these cloths on the dates of opening that I have already named.

The first are the samples from the mill of the G. C. Hetzel Co. They are located in Pennsylvania. This is a cloth weighing 15 to 15½ ounces per yard. This sample is made of all pure wool, with the exception of the silk thread that is found in the stripe in order to give a striped effect to the cloth. The price of this cloth in April, 1920, was $5.85 per yard.

In July, 1921, the price of that same identical cloth, made of the same kind of wool, decorated with silk in the same fashion, and weighing the same number of ounces per yard, was $2.72 per yard instead of $5.85 in 1920. In the opening in February, 1922, that same piece of cloth was put upon the market for $2.50.

Mr. President, I have here the increased prices of woolen goods since the opening in February, 1922, up to July 18, 1922.

Mr. WALSH of Massachusetts. Mr. President, will the Senator permit an interruption right there? Was the great drop in prices in one year on the fabrics referred to by the Senator due to importations from abroad?

Mr. SMOOT. No. I may come to the importations later.

Mr. WALSH of Massachusetts. So that the drop in prices of 50 per cent is not due and can not be attributed to the importations of comparable wool fabrics?

Mr. SMOOT. No; I think it is because the competition is so keen that it has brought about that result.

Mr. WALSH of Massachusetts. I wish I could think so. The drop has been due to the fact that the prices of all products have dropped from 25 to 50 per cent in the last year.

Mr. SMOOT. Oh, the Senator knows, of course, that there is to-day the keenest kind of competition in woolen goods.

Mr. WALSH of Montana. Mr. President, that leads me to inquire if it is the opinion of the Senator that the price in 1920 was a profiteering price?

Mr. SMOOT. I think they were exceedingly high prices—unjustifiable.

Mr. WALSH of Montana. And that the manufacturers are satisfied with less profits now?

Mr. SMOOT. I judge so.

Mr. WALSH of Montana. Is not this element likewise involved—that in 1920 the manufacturer was producing his product from wool that sold for 60 cents in the grease and now he is manufacturing a wool that cost last year 20 cents per pound? Is not that the explanation of the difference?

Mr. SMOOT. He is not buying to-day upon the basis of 20 cents a pound.

Mr. WALSH of Montana. No; but he did a year ago. The goods on the market now, of course, were produced not from wool that was bought this year but from wool that was bought a year ago.

Mr. SMOOT. Of course, the wool that will go into these cloths this year more than likely is not bought yet.

Mr. WALSH of Montana. Quite likely.

Mr. SMOOT. There is not any doubt about it. No manufacturer is going to pile up a lot of goods unless he has sold them. These goods are for next spring. They are not goods for this fall. I have said many times on the floor of the Senate

that in the case of woolen goods they open in February for the cloths that will be made up into suits in the fall and sold for the next spring.

Mr. WALSH of Montana. The point I am making is that the goods that are now on the market were not made from wool bought or sold this year. They were made from wool that was sold last year.

Mr. SMOOT. They will have to buy the wool this year, because they have not the wool on hand to make the cloths I have shown. There is not any doubt but that the increase of prices that has taken place since the opening in February has been brought about because of the increased price of wool.

Mr. WALSH of Montana. But I am not talking about the cloth that will be made. The cloth that is now made, that is ready for sale at this price, was made from wool that was bought last year at 20 cents a pound. The cloth that was made the year before was made from wool that was shorn in 1919 and 1920 and sold at sixty-odd cents a pound in the grease.

Mr. SMOOT. Mr. President, I simply want to say to the Senator that these cloths are being sold to-day at a less price than they were in July, 1921.

Mr. WALSH of Massachusetts. Mr. President, what is the Senator's explanation of that? Does the Senator claim that because these cloths are selling to-day for less than they did a year ago a high protective tariff duty should be levied in this bill?

Mr. SMOOT. I am not saying that at all.

Mr. WALSH of Massachusetts. What connection has it with a tariff bill?

Mr. SMOOT. It has a great deal to do with a tariff bill when you have an ad valorem duty, as the Senator must know. An ad valorem duty on $5.85 is quite a different thing from an ad valorem duty on $2.10.

Mr. WALSH of Massachusetts. But the ad valorem duty is not based upon the American valuation. The Senator knows that. It is based upon the foreign valuation of these fabrics and not the American price. That is a misleading statement.

Mr. SMOOT. The Senator knows that they are both based on the same identical valuation.

Mr. WALSH of Massachusetts. The Senator has given the American prices of those fabrics. The tariff duty levied here is based upon the foreign prices of comparable fabrics, not the American prices.

Mr. SMOOT. Then, if it will suit the Senator better, I will say that the ad valorem duty on $1 is quite different from the ad valorem duty on 40 cents.

Mr. WALSH of Massachusetts. The ad valorem duty upon a piece of goods made in Europe that cost $2 is quite different from the ad valorem duty upon goods made in America that cost $5.

Mr. SMOOT. Nobody has ever denied that.

Mr. WALSH of Massachusetts. The ad valorem duties in this bill are based solely and alone upon the foreign prices of fabrics and not upon the American prices of fabrics.

Mr. SMOOT. It does not make a particle of difference. There was comparatively the same spread in foreign values there was in values in this country, and if there was an ad valorem duty upon $2 of foreign valuation in April, 1920, and to-day's price on the basis of foreign valuation is $1, the protection is quite different in the two cases. That is what I am contending, and I know that there is no Senator who will deny it.

Mr. WALSH of Massachusetts. Pardon me; I do not want to interrupt the Senator's argument; but how can the Senator justify levying any duty upon any price that he has named, when he admitted just a moment ago that he has made no inquiry into the financial standing of these concerns to find out whether or not they are making a profit at the lower price and what profit they were making at the higher price?

Mr. SMOOT. Mr. President, perhaps some mills could make a profit at this price and some could not. There may be a mill in the United States that could not make these goods at all at any price without losing money, while other mills may make them and make money. Are you going to provide a rate of duty to take care of both classes, or which class are you going to take care of?

Mr. President, here is another lot of samples. The price in April, 1920, was $5.10 a yard. In July, 1921, it was $2.75. In February, 1922, it was $2.25. The mills are in Pittsfield, Mass.

Mr. WALSH of Massachusetts. Mr. President, will the Senator be kind enough to state the 1914 prices of those fabrics?

Mr. SMOOT. I have not the 1914 prices here.

Mr. WALSH of Massachusetts. Does not the Senator think that we ought to compare present prices with those of 1914, rather than with the peak prices of the war?

Mr. SMOOT. We are comparing the prices of last year and this year with the prices of the early part of 1920.

Mr. WALSH of Massachusetts. The Senator is comparing the peak prices following the war with the present prices, at a time of great depression; and he has made no comparison between present prices and the prices in 1914, before the war.

Mr. SMOOT. Mr. President, that all depends upon the price of wool; and what is the difference whether the wool is low and the price is low or the wool is high and the price is high? The conversion cost means whether the labor is high or whether it is low, whether the material that goes into the product is high or whether it is low.

To save time, I want to say that the same comparative decline in prices upon every kind of goods, from the light weights to the overcoatings, took place.

Mr. WATSON of Indiana. Where were those goods made?

Mr. SMOOT. These overcoatings were made at Pittsfield, Mass. Here is a very fine class of goods. [Exhibiting.] These goods are made by Frederick Clark, at Talbot, Mass., and the prices of those are about in the same ratio. There is no need of my taking more time of the Senate or filling the RECORD with these things.

Mr. WALSH of Massachusetts. I do not think there is a man on this floor who doubts for one moment that there have been substantial increases in the prices of everything in the last two years.

Mr. SMOOT. I would not say everything. There have been reductions since the war—since the peak prices of 1919 and 1920—but I do not think the Senator can find where the raw material entering into an article is higher than it was; that is, in the case of the fine goods and the finished product lower in price. The prices have dropped in comparison with the drop in prices of woolen goods.

Mr. WALSH of Massachusetts. But I claim that the Senator can not justify the levying of any protective tariff duty—not a compensatory duty, but a protective tariff duty—upon these fabrics, simply because there has been a drop in prices. He must first demonstrate that these companies are losing money at the prices at which they are selling these fabrics, and he is not able to do it.

Mr. SMOOT. I think I could go out and find a number of companies which are losing money, and other companies that are making money. In fact, I know that is true. You can not base a tariff bill upon any such proposition. We hear in this Chamber so often some particular case pointed to and held up as being typical of the conditions in this country. Yesterday we were told of the experience of the shipper of a carload of watermelons; and is the whole law to be changed because of the fact that there was a glut of watermelons in New York, and when that glut took place they did not get enough out of the car of watermelons to pay the freight and expenses? When there is a glut of any article, particularly a perishable article which must seek the great centers of population to be sold, and that article arrives at a time when there is no sale for it at all, they are not going to get a good price for it. I called attention to the fact that one year carload after carload of peaches were shipped from my section which did not bring enough to pay for the boxes the fruit was put in, and in many cases they did not bring anything whatever, the shippers claiming that they had to be dumped into the Chicago River. I do not think all the laws of the United States ought to be changed to meet a condition of that kind, nor do I think so in relation to the watermelons.

I have before me, in the German language, an original copy of a contract which has been made between the textile manufacturers of Germany and the employees of the Rhineland district of Germany. I have had that contract translated into English, and it shows what the wages in Germany in May of this year are, not only in the textile industry but a few other industries of that country. I have also had figured the equivalents in United States money, granting that the mark was worth one-third of a cent. The mark is not worth one-third of a cent, but I want to be perfectly fair in the figures presented here, because the mark may go higher than it is to-day. It is only worth one-fourth of a cent now, but it may reach a third of a cent. All indications point to the fact that it is going lower. I hope it will not, for the great German people's sake and for the German Government's sake. I do not want to see

the German Government disrupted. I do not want to see civil war in Germany and that great people and that great nation destroyed. Let us see what those wages are. This is a textile worker's contract, for males and females. I will first give the wages of the males and then the wages of the females.

Mr. WATSON of Indiana. For May?

Mr. SMOOT. It begins with the month of May. This is the last contract that has been made.

Mr. WILLIS. What year?

Mr. SMOOT. In 1922. For a male, 14 years old, the base wage is 4.2 marks per week. The bounty given to cover the cost of living for April is half a mark. These are the increases they received up to that time in this contract. The increase was half a mark a week—not a day. These are weekly wages—not daily wages. The total applicable to May in marks was an increase of 1 mark, together with the cost of living allowance. The per-hour total wage for May was 5.2 marks.

Change that into equivalent United States money, on the basis of a mark being worth one-third of a cent, and the male, 14 years old, working in the textile industry in Germany, receives 74.8 cents a week—not a day, but a week. The 15-year-old receives 84.9 cents. The 16-year-old receives $1.12 a week. The 17-year-old receives $1.26 a week. The 18-year-old receives $1.65 a week. The 19-year-old receives $1.84 a week. Those 20 years and over receive $2.80 per week.

Let us see what the pay of female workers in this industry is.

Mr. WALSH of Montana. Up to the present time I have understood that our real competitor in the manufacture of woolens was Great Britain and not Germany.

Mr. SMOOT. I will come to that later. I will say to the Senator that as to special cloths, in cases where our nobby Americans will not wear other than the English goods, they do come from England.

Mr. WALSH of Montana. I received the other day from the Department of Agriculture a bulletin, which gives a gratifying piece of news. It says:

> German imports of merino and crossbred wool in the grease and washed during the last six months of 1921 were over three times those for the corresponding period of 1920, and about one-fifth greater than those of July–December, 1913.

That is to say, the German mills are beginning to absorb the wool which ordinarily is marketed from Antwerp, and that fact accounts to a very large extent, I am sure, for the improved foreign market for wool as reflected in an improved price in this country.

But I rose because I thought this was an opportune time to call attention to the fact that the conditions in Germany to which the Senator now alludes is not, as we understand it, at all favorable to the export trade.

Mr. SMOOT. If the Senator will let me make my speech, I may be able to explain.

Mr. WALSH of Montana. I just want to put this information in in connection with what the Senator was saying. I clipped from the paper of two mornings ago, under the heading "Wall Street Gossip"——

Mr. SMOOT. What paper?

Mr. WALSH of Montana. The Washington Post, which, as the Senator is aware, is not unfavorable to his side of the contention.

Mr. SMOOT. I do not know. I have not seen that the Washington Post has said anything very favorable of the pending bill.

Mr. WALSH of Montana. I do not care to controvert that. It submits a consideration important in this connection. The clipping reads as follows:

> Although it seems a far cry from the foreign exchange markets to the domestic steel situation, the virtual collapse of German exchange constitutes one of the strongest factors in the prosperity of the Crucible Steel Co. The products of this company have little competition from domestic producers, but in normal times German mills are well able to handle the same sort of business. The unsettled financial situation in Germany is practicaly eliminating mills of that country from foreign markets, and it is partly for this reason that Crucible has been doing so well.

So the facts to which the Senator invites attention, far from indicating that competition with American wool manufacturers is going to be keener, would clearly indicate that the difficulties surrounding manufacturers over there, by reason of the collapse of the mark, are so great that Germany is practically retiring from the world market.

Mr. WALSH of Massachusetts. Will the Senator from Montana permit me to suggest that of the imports into this country last year—that is, in 1921—of woven fabrics, only 1.3 per cent came from Germany, and the importations were very small anyway. One and three-tenths per cent of the importations, which were negligible, came from Germany.

Mr. SMOOT. Mr. President, we are not making this tariff bill for to-day. I know that it is difficult for Germany to buy, under her depreciated currency, the high-priced wool of the world to-day. She does not raise one pound of it in her borders, and every pound she buys she has to pay for in gold or in goods. We know that. But how long is that going to last? If we were making this bill for the conditions of to-day, it would be made quite differently, and if we could change the tariff rates every month, the rates would not change, perhaps, that often, but there would be a great many changes made.

Mr. WATSON of Indiana. Aside from the question of the basic raw material, there is still the question of wages.

Mr. SMOOT. Certainly; and another thing, I want to say frankly to the Senator that I suppose Germany finds for her excess woolen goods perhaps a better market.

Mr. WALSH of Massachusetts. Does the Senator claim that Germany makes enough woolen goods for home consumption? Does the Senator make that claim here, with his knowledge of the woolen industry?

Mr. SMOOT. Why, of course no country makes all of the woolen goods that it uses. Germany does not make the same classes of goods that she imports. I have never made any such statement as that, but I do claim that Germany makes goods in competition with the goods that are made here and found in the paragraph we are discussing. Those are the goods she makes.

Now, what are the females paid in German mills? Females 14 years old are paid 63 cents a week; 15 years old, 73 cents a week; 16 years old, 91 cents a week; 17 years old, $1.02 a week; 18 years old, $1.29 a week; 19 years old, $1.44 a week; 20 years old and over, $2.18 a week.

What are we paying in our mills in this country? Is it 100 per cent more? Is it 200 per cent more? Is it 300 per cent more? Is it 400 or 500 per cent more? Is it 600 or 700 or 800 or 900 per cent more? Yes; it is 1,000 per cent more. I would not want to live to see the day when the working people in the textile industry in this country would be compelled to work for the pittance that is paid in Germany to-day.

Mr. President, outside of the compensatory duty provided for in this paragraph there is no rate of protection to the American manufacturer of more than 50 per cent. The cotton manufacturer was given 45 per cent. The woolen manufacturer given 50 per cent. I have been asked how I could justify that 5 per cent differential. I have tried many times to run a loom at a higher speed than 83 picks to the inch of cloth a minute.

Mr. WALSH of Massachusetts. Does the Senator compare the manufacturer's method of running looms with the method in vogue when he ran them?

Mr. SMOOT. Certainly.

Mr. WALSH of Massachusetts. Has there been no improvement?

Mr. SMOOT. As relating to many of these goods, there has not been.

Mr. WALSH of Massachusetts. So there has been no development or improvement in the weaving of woolens in the last 30 years?

Mr. SMOOT. In the last 20 years. The Crompton loom is as good as any made in all the world, and they do not run any faster. If they undertook to run faster it would never pay them because the breaks would be too frequent.

Mr. WALSH of Massachusetts. Does the Senator contend that a weaver does not run more woolen looms to-day than he did 30 or 40 years ago?

Mr. SMOOT. Certainly, on the same kind of goods. We have no automatic woolen looms. This is not a case where you can put up 20 looms along an aisle and have one woman running up and down the aisle, and whenever an automatic stop is made fix the thread and set it going, while the other 19 looms are running all the time. I want to say there is no one who can take a piece of fancy woolen goods and run more than one six-quarter loom. I do not care whether he lives in England or America, and England claims to have the best weavers in the world.

Mr. WALSH of Massachusetts. Of course, the Senator does not mean to claim that all weavers run only one loom?

Mr. SMOOT. I say on fancy cashmeres.

Mr. WALSH of Massachusetts. On extremely heavy fabrics they run one loom, but on the lighter weaves they run two and three looms, and the Senator knows it.

Mr. SMOOT. On plain fabrics they may have run two looms, but when it comes to fancy cloths, I do not care whether it is 16 or 24 ounces, they run only one loom, and it takes a pretty

good weaver to-day to do it if the pattern is complicated, particularly where there is a check in it. On the other hand, in a cotton mill, as I said, on plain goods they may run as high as 15 and 16 automatic looms, automatic not only as to the stopping of them when the filling breaks or runs out, but with every thread that breaks in the warp. They have no woolen loom that can do it. Somebody has to watch the warp all the time, and if a thread breaks in the warp in a fancy pattern and the loom runs very long, there will be not only one thread broken, but from 10 up to perhaps 100 of them. Then when the threads are drawn in, if they are drawn in properly and drawn in straight and the pattern in the cloth maintained, I want to say right now that it takes a good weaver to do it.

In the cotton looms they run 140 picks to the minute, and the highest I have ever run on the Crompton loom was 83 picks. So, Mr. President, every minute a cotton loom with the same number of picks produces three-fourths more in the length of cloth then it would in wool if the pick is of the same size thread. Therefore the difference between the 45 per cent and the 50 per cent.

The highest rate of protection in the Payne-Aldrich law was 55 per cent, where we have 50 per cent in the pending bill, but in the Payne-Aldrich law was an unhidden protection that came to them because of the fact that they had 11 cents upon wool in the grease and 33 cents on the scoured wool. The average of all the wools in the grease which they imported cost but 18 cents clean content. So between 18 cents and 33 cents was the hidden protection under that law. I do not say that applied to all woolens. It was not so on western wools, because those wools average 60 per cent shrinkage, but under the law of 1919 the importer was allowed to import wools with a shrinkage of from 20 per cent to 40 per cent, and the difference of shrinkage was the unhidden protection of the manufacturer.

I do not know that I have anything further to say on the matter. The Senate has decided that there should be 33 cents on the scoured content of the wool. The compensatory duties in the paragraph are simply the amounts of the compensatory duties necessary to take care of the 33 cents on the scoured content. The protective duty, as I said, is in this case 50 per cent.

I ask unanimous consent to have inserted in the RECORD, following my remarks, a copy of the wage agreement to which I have referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

The matter referred to is as follows:

WAGE AGREEMENT.

DISTRICT GROUP OF RHINELAND NATIONAL WORKERS' ASSOCIATION FOR THE TEXTILE INDUSTRY FROM MAY 5, 1922.

1. May wages according to the base tariff of the textile workers' tariff for males and females.

The new operative wages from May 1, 1922, for such male and female workers who receive only the rates of the base tariffs are as follows:

	Base wage.	Cost of living for April.	Increase for May.	Total applicable to May.	Per hour new total wage for May.	Per week equivalent in United States dollars, at 1 mark equals .003 cent.[1]
(a) Males:						
Day workers who are paid the fixed rates—	*Marks.*	*Marks.*	*Marks.*	*Marks.*	*Marks.*	
14 years	4.20	0.50	0.50	1.00	5.20	$0.7488
15 years	4.50	.70	.70	1.40	5.90	.8496
16 years	5.80	1.00	1.00	2.00	7.80	1.1232
17 years	6.20	1.30	1.30	2.60	8.80	1.2672
18 years	8.35	1.65	1.50	3.15	11.50	1.6560
19 years	8.90	2.10	1.80	3.90	12.80	1.8432
20 years and over	13.50	3.40	2.60	6.00	19.50	2.8080
Pieceworkers, 20 years and over	13.00	3.40	2.60	6.00	19.00	2.7360
(b) Females:						
Day workers who are paid the fixed rates—						
14 years	3.60	.40	.40	.80	4.40	.6336
15 years	3.90	.60	.60	1.20	5.10	.7344
16 years	4.65	.85	.85	1.70	6.35	.9144
17 years	4.95	1.10	1.10	2.20	7.15	1.0296
18 years	6.40	1.40	1.20	2.60	9.00	1.2960
19 years	6.70	1.70	1.60	3.30	10.00	1.4400
20 years and over	10.40	2.70	2.10	4.80	15.20	2.1888
Pieceworkers, 20 years and over	10.00	2.70	2.10	4.80	14.80	2.1312

[1] The United States equivalents are not in the original agreement, but have been added for convenient comparison.

2. For those who are engaged in branches of the industry having distinctive branch tariffs, all day and piece workers are allowed the same cost of living additions for May as are given in column 4 above.

3. The foregoing wage agreement is effective until May 31, 1922, and continues itself automatically for one month unless one week's notice is given before the expiration of the month by either party.

4. The family allowance remains as heretofore.

Tariff agreement for clerical and technical forces of the following industries for the month of April, 1922.

	Salaries per month.	Salaries per month equivalent in United States dollars, at 1 mark equals 0.003 cents.[1]
Metal and wood industry:	*Marks.*	
1. Art draftsman, class A (30 years old)	4,000	$12.000
2. Works assistants (22 to 24 years)	3,925	11.775
Works assistants (over 24 years)	4,525	13.575
3. Independent construction men	5,400	16.200
3a. Independent construction men	6,000	18.000
Overseers	6,000	18.000
Branch and department overseers	5,400	16.200
Second hands	4,725	14.175
Machine fixers (button industry)	4,325	12.975
Textile industry:		
Storeroom keeper, first dyer	6,000	18.000
Head overseer	5,400	16.200
Department overseer	4,725	14.175
Second hand	4,325	12.975
Draftsmen, mill clerks, class A (30 years)	4,000	12.000
Paper industry:		
Draftsman, etc., up to	3,925	11.775
Technical and laboratory men (22 to 24 years)	4,525	13.575
Technical and laboratory men (over 24 years)	5,400	16.200
Independent construction men	6,000	18.000
Overseer	5,400	16.200
Branch and department overseer	4,725	14.175
Second hand	4,325	12.975
Chemical industry:		
Draftsmen, etc	3,925	11.775
Technical (22 to 24 years)	4,525	13.575
Technical (over 24 years)	5,400	16.200
Independent construction men	6,000	18.000
Carpenter and machinists, etc., overseer	5,400	16.200
Works and laboratory overseer, first year	4,725	14.175
Works and laboratory overseer, second year	5,100	15.300
Works and laboratory overseer, third year	5,400	16.200
Piano industry:		
Branch and department overseer	5,700	17.100
Second hand	5,175	15.525
Apprentices, first year	400	1.200
Apprentices, second year	600	1.800
Apprentices, third year	800	2.400

[1] The United States equivalents are not in the original agreement, but have been added for convenient comparison.

Family allowance, 200 marks. Allowance per child, 100 marks.

GERMAN OVERSEERS' ASSOCIATION,
Office, Barmen.

BARMEN (ELBERFELD DISTRICT), *February 25, 1922.*

Tariff revision of the clerical and technical forces for February and March.

CLERICAL SALARIES PER MONTH.

	Males.				Females.			
	Feb.	Equivalent in United States dollars at 1 mark equals 0.003 cent.[1]	Mar.	Equivalent in United States dollars at 1 mark equals 0.003 cent.[1]	Feb.	Equivalent in United States dollars at 1 mark equals 0.003 cent.[1]	Mar.	Equivalent in United States dollars at 1 mark equals 0.003 cent.[1]
	Mks.		*Mks.*		*Mks.*		*Mks.*	
17 years	975	$2.925	1,050	$5.150	825	$2.475	900	$2.700
18 years	1,150	3.45	1,250	3.750	975	2.925	1,050	3.150
19 years	1,325	3.975	1,450	4.350	1,125	3.375	1,225	3.675
20 years	1,525	4.575	1,650	4.950	1,275	3.825	1,400	4.200
21 years	1,675	5.025	1,800	5.400	1,425	4.275	1,550	4.650
22 years	1,850	5.550	2,000	6.000	1,575	4.725	1,725	5.175
23 years	2,025	6.075	2,200	6.600	1,750	5.250	1,900	5.700
24 years	2,225	6.675	2,400	7.200	1,900	5.700	2,075	6.225
25 years	2,400	7.200	2,600	7.800	2,050	6.150	2,250	6.750
26 to 29 years	2,600	7.800	2,800	8.400	2,250	6.750	2,425	7.275
30 and over	2,800	8.400	3,000	9.000	2,400	7.200	2,600	7.800

[1] The United States equivalents are not in the original agreement, but have been added for convenient comparison.

Class B 25 per cent additional to the foregoing.
Class C 50 per cent additional to the foregoing.

Tariff revision of the clerical and technical forces for February and March—Continued.

SALARIES OF TECHNICAL OVERSEERS—METAL INDUSTRY.

	February.	Equivalent in United States dollars at 1 mark equals 0.003 cent.[1]	March.	Equivalent in United States dollars at 1 mark equals 0.003 cent.[1]
Group I. Draftsmen same as class A.				
Group II. Detail construction men, 22 to 24	*Marks.* 2,625	$7.875	*Marks.* 2,950	$8.850
Detail construction men, over 24	3,100	9.300	3,400	10.200
Group III. Independent construction men	3,700	11.100	4,050	12.150
Group IIIa. Independent construction men	4,125	12.375	4,500	13.500

[1] The United States equivalents are not in the original agreement, but have been added for convenient comparison.

The salaries of the technical forces of the chemical, paper, and general wood industry are identical with those of the technical forces of the metal industry.

Group II. Draftsmen, etc., in the textile industry, department clerks, same as Class A of the clerical salaries.

Group III. Assistant designers, assistant superintendents, department clerks, same as Class B of the clerical salaries.

Group I. Head of designing, head calculator, etc., same as Class C of the clerical salaries.

OVERSEERS' SALARIES.

	February.	Equivalent in United States dollars, at 1 mark equals 0.003 cent.[1]	March.	Equivalent in United States dollars, at 1 mark equals 0.003 cent.[1]
Metal and wood industry:	*Mark.*		*Mark.*	
Head overseer	4,125	$12.375	4,500	$13.500
Branch and department overseer	3,700	11.100	4,050	12.150
Second hands	3,250	9.750	3,550	10.650
Machine fixers (average)	2,975	8.925	3,250	9.750
Textile and paper industry:				
Assistant superintendent, first dyer, storeroom keeper	4,215	12.675	4,500	13.500
Head overseer, second dyer	3,700	11.100	4,050	12.150
Branch and department overseer	3,250	9.750	3,550	10.650
Second hand	2,975	8.925	3,250	9.750
Chemical industry:				
Branch overseer	3,700	11.100	4,050	12.150
Manufacturing and laboratory overseer, 1 year service	3,250	9.750	3,550	10.650
Manufacturing and laboratory overseer, 2 years' service	3,560	10.680	3,825	11.247
Manufacturing and laboratory overseer, 3 years' service	3,700	11.100	4,050	12.150
Piano industry:				
Branch and department overseer	3,925	11.775	4,275	12.825
Second hand	3,575	10.725	3,875	11.625

[1] The United States equivalents are not in the original agreement, but have been added for convenient comparison.

To these salaries are to be added after Feb. 1, 200 marks per month for husband or wife who is not employed, and for each child 100 marks per month.

The foregoing general tariff and salary agreement will discontinue March 31, 1922, without notice.

Mr. SMOOT. Mr. President, I ask unanimous consent that when the Senate closes its session to-day it take a recess until to-morrow morning at 11 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WATSON of Indiana. Mr. President, I have no desire to make any extended remarks on the subject. Had it not been that the Senator from Utah [Mr. SMOOT] has presented the facts for the consideration of the Senate and for publication in the RECORD, I perhaps should not have claimed the attention of those present long enough even to have asked the privilege of inserting similar and supplementary figures for publication.

It has been asserted repeatedly on the floor that wages in Germany are increasing, and that they have increased constantly almost from the time of the close of the war, and occasionally clippings have been read from newspapers to show that wages have increased in that country. Of course, in order to prove that, the wages are stated in marks. Stated in marks an increase is shown but stated in American money it is not an increase, as the Senator from Utah has already so well shown.

The figures which I have were compiled by the Tariff Commission from German sources after a thorough study and full survey of the whole situation. They refer not only to the textile industry, male and female, but also to a great many other industries—metal, chemical, building, bricklayers, stonemasons, carpenters, and miners of different kinds, iron ores, and so forth. The Senator from Utah has stated the wages received in the textile industry in Germany. He did not give the cities.

Mr. SMOOT. It was in the Rhineland district.

Mr. WATSON of Indiana. I have the report for as many as 15 different cities in the textile industry for September, 1921; December, 1921; March, 1922; and April, 1922, supplementing what the Senator from Utah has already given for May, 1922. These figures show that in Germany in September, 1921, the average wages paid females in the textile industries in all those cities, stated in marks per hour, was 5.65; in December, 1921, 7.93; in March, 1922, 9.75; in April, 1922, 12.02. This would show a steady increase stated in marks, but when stated in American money it shows there has not been an increase, as the Senator has already said. In September, 1921, in terms of American money it would be the equivalent of 5.07 cents per hour; in December, 4.26 cents per hour; in March, 1922, 3.21 cents per hour; and in April, 1922, 4.95 cents per hour, showing, instead of an increase, a decrease when measured in American money. I ask permission to insert in the RECORD the statement to which I have just referred.

The PRESIDING OFFICER (Mr. MOSES in the chair). Without objection, it is so ordered.

The table is as follows:

Wages in German textile industry (union workers, female, full time).
(Source: German official reports.)

Cities reporting over 1,000 workers in the industry.	Number of workers reported.	September, 1921.		December, 1921.		March, 1922.		April, 1922.	
		Marks per hour.	Dollars per hour (mark at $0.008067).[1]	Marks per hour.	Dollars per hour (mark at $0.00538).[1]	Marks per hour.	Dollars per hour (mark at $0.003294).[1]	Marks per hour.	Dollars per hour (mark at $0.003606).[1]
Aachen	5,347	7.13	0.0639	12.30	0.0662	14.20	0.0468	17.95	0.0647
Augsburg	11,085	5.45	.0489	6.25	.0336	9.50	.0313	13.70	.0494
Berlin	3,120	5.85	.0524	6.60	.0355	9.65	.0318	15.51	.0559
Bielefeld	3,011	5.30	.0475	7.50	.0403	10.00	.0329	11.30	.0407
Braunschweig	1,325	4.10	.0368	6.60	.0355	8.20	.0270	.....	.....
Breslau	1,007	4.80	.0430	6.25	.0336	7.10	.0234	9.60	.0346
Chemnitz	14,086	6.30	.0565	8.64	.0465	9.85	.0324	13.20	.0476
Dresden	2,083	6.30	.0565	8.64	.0465	9.85	.0324	13.20	.0476
Elberfeld	4,027	6.72	.0602	11.04	.0594	10.60	.0349	15.40	.0555
Gera	5,183	6.70	.0601	8.56	.0460	12.00	.0395	12.00	.0433
Goppingen	3,813	4.83	.0433	6.90	.0371	8.60	.0283	12.25	.0442
Hamburg	3,895	5.80	.0520	7.50	.0403	8.80	.0290	11.10	.0400
Hanover	1,948	4.80	.0430	6.96	.0374	8.50	.0280	8.50	.0306
Leipzig	6,657	6.30	.0565	8.64	.0465	9.85	.0324	13.20	.0476
Mannheim	1,005	5.05	.0453	7.40	.0398	11.30	.0372	11.30	.0407
Plauen i. B	2,153	6.70	.0601	9.20	.0495	9.85	.0324	13.20	.0476
Stuttgart	4,385	4.83	.0433	6.90	.0371	9.00	.0296	12.75	.0460
Ulm a. d	1,128	4.83	.0433	6.90	.0371	8.60	.0283	12.25	.0442
Average	.....	5.65	.0507	7.93	.0426	9.75	.0321	12.02	.0459

[1] Wages in marks converted to dollars at average value of mark from 1st to 15th of the given month.

Mr. WATSON of Indiana. I have another table with reference to the textile industry, showing the rates paid to male workers, covering the same time, September and December, 1921, and March and April, 1922. I shall not recite the figures, because they will speak for themselves. I ask permission to have that table inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table is as follows:

Wages in German textile industry (union workers—male—full time).
(Source: German official reports.)

Cities reporting over 1,000 workers in the industry.	Number of workers reported.	September, 1921.		December, 1921.		March, 1922.		April, 1922.	
		Marks per hour.	Dollars per hour (mark at $0.008067).[1]	Marks per hour.	Dollars per hour (mark at $0.00538).[1]	Marks per hour.	Dollars per hour (mark at $0.003294).[1]	Marks per hour.	Dollars per hour (mark at $0.003606).[1]
Aachen	4,070	7.13	0.0639	12.30	0.0662	14.20	0.0468	17.95	0.0647
Augsburg	6,108	6.85	.0614	8.15	.0438	11.40	.0375	18.50	.0667
Berlin	2,100	7.90	.0708	9.70	.0522	12.50	.0412	17.50	.0631
Bielefeld	1,810	6.90	.0619	9.55	.0514	13.00	.0428	14.90	.0537
Chemnitz	5,229	8.50	.0762	12.00	.0646	12.25	.0403	15.75	.0568
Elberfeld	2,917	8.64	.0775	13.80	.0742	14.00	.0461	20.00	.0721

[1] Wages in marks converted to dollars at average value of mark from 1st to 15th of the given month.

Wages in German textile industry, etc.—Continued.

Cities reporting over 1,000 workers in the industry.	Number of workers reported.	September, 1921.		December, 1921.		March, 1922.		April, 1922.	
		Marks per hour.	Dollars per hour (mark at $0.008967).	Marks per hour.	Dollars per hour (mark at $0.00538).	Marks per hour.	Dollars per hour (mark at $0.003294).	Marks per hour.	Dollars per hour (mark at $0.003606).
Gera	5,348	7.75	0.0695	9.85	0.0530	14.05	0.0463	14.05	0.0507
Goppingen	1,011	6.85	.0614	9.75	.0524	12.10	.0398	16.50	.0595
Hamburg	1,130	7.95	.0713	11.25	.0605	13.20	.0435	16.70	.0602
Hanover	1,003	6.48	.0581	9.36	.0504	12.75	.0420	12.75	.0460
Leipzig	2,224	8.50	.0762	12.00	.0646	12.25	.0403	15.75	.0568
Plauen i. B	2,348	7.80	.0699	10.65	.0573	12.25	.0403	15.75	.0568
Average		7.65	.0682	10.70	.0575	12.83	.0422	16.34	.0589

Mr. WATSON of Indiana. In addition to that I desire to submit a table comparing German wages in gold and in terms of wholesale prices and cost of living, covering various industries and a very great number of employees, something over a million, possibly a million and a quarter. The table gives the wages in dollars per hour, the equivalent wholesale purchasing power, and the equivalent in cost of living; that is to say, the average for all the workers reported for September, 1921, was 6.19 cents per hour, but the equivalent wholesale purchasing power of the mark thus paid at that time was 11.21 cents per hour, while the equivalent in the cost of living was 21.36 cents per hour. That explains why it is that, although the German workers are receiving such low wages measured in American money, yet, trading among themselves, their money is of sufficient value to enable them to live as they do live in Germany. These figures are quite instructive, if anyone cares to study them, and they explain very fully the situation. It is a fact that the factories in Germany are all open and they are all at work and running full time, and they show as large a percentage of employment as ever before in the history of Germany. I have those facts here, which I do not care to insert in the RECORD. I desire, however, to place in the RECORD the table to which I have referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

The table is as follows:

Comparison of German wages in gold and in terms of wholesale prices and cost of living.

Industry.	Number of workers reported.	September, 1921.			December, 1921.			March, 1922.			April, 1922.		
		Wages, dollars per hour (mark at $0.008967).	Equivalent wholesale purchasing power (mark at $0.0167).	Equivalent in cost of living (mark at $0.0318).	Wages, dollars per hour (mark at $0.00538).	Equivalent wholesale purchasing power (mark at $0.0096).	Equivalent in cost of living (mark at $0.0503).	Wages, dollars per hour (mark at $0.003294).	Equivalent wholesale purchasing power (mark at $0.0058).	Equivalent in cost of living (mark at $0.0104).	Wages, dollars per hour (mark at $0.03606).	Equivalent wholesale purchasing power (mark at $0.0057).	Equivalent in cost of living (mark at $0.0095).
Metal industry	508,070	$0.0695	$0.1175	$0.2238	$0.0545	$0.0962	$0.2087	$0.0486	$0.0855	$0.1534	$0.0606	$0.0958	$0.1597
Textile industry (male)	35,298	.0682	.1277	.2433	.0575	.1029	.2204	.0422	.0744	.1334	.0589	.0931	.1552
Textile industry (female)	75,258	.0507	.0943	.1797	.0426	.0753	.1633	.0321	.0565	.1014	.0459	.0685	.1142
Chemical industry (male)	52,977	.0582	.1100	.2095	.0543	.0958	.2076	.0434	.0764	.1371			
Chemical industry (female)	18,417	.0377	.0701	.1335	.0348	.0615	.1335	.0286	.0498	.0893			
Building industry—Bricklayers, stoneworkers, and carpenters (average)	88,730	.0725	.1349	.2570	.0651	.1150	.2493	.0564	.0994	.1781			.1627
Miners (total)	372,320	.0701	.1306	.2487	.0596	.1053	.2282	.0509	.0899	.1612	.0713	.1042	.1737
Pitcoal	317,647	.0767	.1430	.2722	.0653	.1168	.2501	.0552	.0962	.1725	.0754	.1223	.2038
Brown coal	36,278	.0654	.1217	.2318	.0564	.0994	.2157	.0461	.0812	.1457	.0682	.1072	.1787
Potash	14,120	.0592	.1102	.2100	.0513	.0905	.1963	.0441	.0777	.1394			
Iron ore	4,275	.0608	.1132	.2156	.0499	.0882	.1914	.0486	.0856	.1535	.0704	.1113	.1855
Average (all workers reported)		.0619	.1121	.2136	.0532	.0931	.2016	.0445	.0759	.1363	.0591	.0904	.1531

Mr. WATSON of Indiana. Mr. President, in addition to that I wish to have printed in the RECORD some tables which have just been compiled by the Bureau of Labor and which I received on yesterday. The first table shows the number of employees and their earnings per hour in cotton manufacturing in Massachusetts and in five Southern States in 1920 and 1921 by occupations. The other tables show the number of employees and earnings per hour in the metal trades in specified cities in the same year; the number of employees and earnings per hour in the building trades in specified cities in 1920 and in 1921; the number of employees and earnings per hour in the bituminous coal mining in the United States in 1919 and 1921 and also in anthracite coal mining.

The PRESIDING OFFICER. Without objection, it is so ordered.

The tables are as follows:

Number of employees and earnings per hour in cotton manufacturing in Massachusetts and in five Southern States, in 1920 and 1922, by occupations.

Occupation.	Males.				Females.			
	1920		1922		1920		1922	
	Number of workers.	Earnings per hour.	Number of workers.	Earnings per hour.	Number of workers.	Earnings per hour.	Number of workers.	Earnings per hour.
MASSACHUSETTS.								
Picker tenders	207	$0.511	160	$0.408				
Card tenders and strippers	219	.588	194	.436				
Card grinders	87	.637	77	.525				
Drawing frame tenders	95	.523	79	.361	283	$0.409	247	$0.314
Slubber tenders	129	.663	126	.479	33	.559	31	.430
Speeder tenders	184	.674	267	.501	1,034	.514	987	.402
Spinners, mule	141	.909	108	.751				
Spinners, frame	95	.605	124	.375	1,642	.506	1,585	.386
Doffers	416	.519	418	.403	228	.423	193	.344
Spooler tenders					729	.473	693	.353
Creelers or tyers-in					110	.374	116	.289
Warper tenders					184	.492	180	.387
Beamer tenders	127	.778	192	.583	20	.739	2	.602
Slasher tenders	133	.706	147	.564				
Drawers-in					217	.525	215	.419
Warp-tying machine tenders	33	.681	46	.527				
Loom fixers	617	.791	643	.620				
Weavers	1,719	.598	1,967	.460	3,022	.548	2,856	.415
Trimmers or inspectors	8	.664	5	.365	282	.375	268	.303
Other employees	2,930	.490	3,237	.375	1,234	.368	1,239	.316
ALABAMA, GEORGIA, NORTH CAROLINA, SOUTH CAROLINA, AND VIRGINIA.								
Picker tenders	400	.360	386	.227				
Card tenders and strippers	576	.400	582	.246				
Card grinders	168	.547	168	.348				
Drawing frame tenders	392	.439	400	.246	144	.289	129	.178
Slubber tenders	381	.501	374	.315				
Speeder tenders	1,094	.497	1,242	.311	431	.414	432	.260
Spinners, frame	117	.332	297	.202	3,045	.371	3,352	.224
Doffers	1,857	.432	1,887	.259				
Spooler tenders					1,560	.343	1,739	.206
Creelers or tyers-in	19	.436	27	.287	231	.328	220	.210
Warper tenders	68	.513	76	.311	145	.405	170	.282
Beamer tenders	85	.659	114	.536				

Number of employees and earnings per hour in cotton manufacturing in Massachusetts and in five Southern States, etc.—Continued.

Occupation.	Males.				Females.			
	1920		1922		1920		1922	
	Number of workers.	Earnings per hour.	Number of workers.	Earnings per hour.	Number of workers.	Earnings per hour.	Number of workers.	Earnings per hour.
ALABAMA, GEORGIA, NORTH CAROLINA, SOUTH CAROLINA, AND VIRGINIA—continued.								
Slasher tenders	240	$0.469	268	$0.305				
Drawers-in					178	$0.400	227	$0.256
Warp-tying machine tenders	79	.533	97	.348				
Loom fixers	1,075	.587	1,160	.384				
Weavers	2,776	.528	3,574	.313	1,755	.457	2,082	.283
Trimmers or inspectors	43	.405	64	.217	377	.290	454	.186
Other employees	7,144	.453	8,355	.230	2,067	.270	1,999	.176

Number of employees and earnings per hour in metal trades in specified cities in 1921 and 1922.

Occupation and location.	1921		1922	
	Number of workers.	Rate of wages per hour (cents).	Number of workers.	Rate of wages per hour (cents).
Blacksmiths:				
Chicago, Ill	400	110.0	400	110.0
New Orleans, La	93	80.0	73	83.0
New York, N. Y	450	72.0	450	72.0
Philadelphia, Pa	55	110.0	51	100.0
Pittsburgh, Pa	100	90.0	175	90.0
Seattle, Wash	125	80.0	80	75.0
Boilermakers:				
Boston, Mass	211	80.0		
Chicago, Ill	225	74.0	225	70.0
Detroit, Mich	50	100.0		
New Orleans, La	300	80.0	150	75.0
New York, N. Y	1,300	72.0	1,300	64.0
Philadelphia, Pa	213	90.0	45	80.0
Pittsburgh, Pa	249	82.5		
Seattle, Wash	75	80.0	75	72.0
Machinists, manufacturing shops:				
Chicago, Ill	12,000	90.0	4,000	83.0
New Orleans, La	500	80.0	750	75.0
New York, N. Y	11,000	85.0	9,000	85.0
Philadelphia, Pa	3,500	75.0	1,125	75.0
Seattle, Wash	690	80.0	400	72.0

The above figures are based on wage agreements between employers and labor unions and do not necessarily represent wages actually paid.

Number of employees and earnings per hour in building trades in specified cities in 1921 and 1922.

Occupation and location.	1921		1922	
	Number of workers.	Rate of wages per hour (cents).	Number of workers.	Rate of wages per hour (cents).
Bricklayers:				
Boston, Mass	1,500	100.0		
Chicago, Ill	3,327	125.0	3,979	110.0
Detroit, Mich	1,496	100.0	1,450	100.0
New Orleans, La	325	100.0	310	100.0
New York, N. Y	5,116	125.0	6,000	125.0
Philadelphia, Pa	1,500	130.0	1,400	125.0
Pittsburgh, Pa	900	150.0	1,100	130.0
Seattle, Wash	167	112.5	167	112.5
Carpenters:				
Boston, Mass	7,000	100.0		
Chicago, Ill	13,400	125.0	13,456	110.0
Detroit, Mich	2,493	85.0	2,025	85.0
New Orleans, La	1,800	100.0	1,800	100.0
New York, N. Y	21,997	112.5	18,720	112.5
Philadelphia, Pa	4,500	112.5	4,500	90.0
Pittsburgh, Pa	4,500	125.0	4,500	100.0
Seattle, Wash	2,000	87.5	2,000	87.5
Plasterers:				
Chicago, Ill	1,200	125.0	1,400	110.0
Detroit, Mich	450	125.0	350	112.5
New Orleans, La	170	100.0	275	100.0
New York, N. Y	3,735	125.0	3,914	125.0
Philadelphia, Pa	550	125.0	500	125.0
Pittsburgh, Pa	325	125.0	320	112.5
Seattle, Wash	60	125.0	80	112.5
Plumbers:				
Boston, Mass	650	100.0		
Chicago, Ill	2,180	125.0	2,400	110.0
Detroit, Mich	600	100.0	500	100.0
New Orleans, La	250	100.0	200	90.0
New York, N. Y	1,900	112.5	2,150	112.5
Philadelphia, Pa	1,050	115.0	500	90.0
Pittsburgh, Pa	675	125.0	700	112.5
Seattle, Wash	185	112.5	185	100.0

The above figures are based on wage agreements between employers and labor unions and do not necessarily represent wages actually paid.

Number of employees and earnings per hour in bituminous coal mining in the United States in 1919 and 1921.

Occupation.	1919		1921	
	Number of workers	Earnings per hour.	Number of workers.	Earnings per hour.
Inside work:				
Brakemen	1,005	$0.581	1,333	$0.779
Bratticemen and timbermen	932	.610	996	.820
Cagers	220	.626	185	.871
Drivers	2,372	.609	2,080	.824
Laborers	2,319	.585	2,967	.697
Loaders	13,345	.774	22,560	.902
Miners, hand	11,379	.785	8,429	.840
Miners, machine	1,721	.926	2,371	1.274
Motormen	894	.619	1,296	.815
Pumpmen	344	.586	452	.734
Trackmen	1,122	.598	1,393	.826
Trappers (boys)	536	.339	393	.472
Total	36,189	.726	44,445	.877
Outside work:				
Blacksmiths	376	.621	339	.857
Carpenters	260	.585	427	.752
Engineers	380	.601	267	.820
Firemen	443	.537	327	.745
Laborers	2,860	.502	2,407	.649
Total	4,319	.534	3,767	.700
Grand total	40,508	.699	48,212	.863

Number of employees and earnings per hour in anthracite coal mining in Pennsylvania in 1920 and 1922.

Occupation.	1920		1922	
	Number of workers.	Average earnings per hour.	Number of workers.	Average earnings per hour.
Inside work:				
Blacksmiths	20	$0.578	23	$0.685
Bratticemen	111	.569	136	.657
Cagers	197	.511	196	.604
Car runners	233	.504	402	.592
Door tenders (boys)	156	.306	190	.342
Drivers	272	.498	539	.580
Engineers	100	.562	152	.647
Laborers	736	.521	1,426	.608
Laborers, company miners	308	.526	774	.629
Laborers, consideration miners	202	.541	339	.654
Laborers, contract miners	1,191	.679	3,383	.773
Machinists	19	.584	31	.678
Masons	29	.579	51	.677
Miners, company	367	.576	775	.697
Miners, consideration	480	.659	626	.883
Miners, contract	3,188	.925	6,209	1.088
Motormen	202	.554	327	.648
Motor brakemen	178	.497	310	.585
Pumpmen	99	.417	180	.627
Timbermen	97	.578	161	.677
Trackmen	123	.578	177	.675
Total	8,308	.690	16,407	.839
Outside work:				
Ashmen	53	.449	67	.525
Blacksmiths	39	.574	64	.667
Cagers	84	.449	100	.536
Carpenters	163	.548	221	.661
Car runners	46	.450	87	.529
Dumpers	57	.448	85	.530
Engineers	185	.532	203	.646
Firemen	217	.501	249	.595
Jig runners	54	.426	109	.507
Laborers	718	.438	1,349	.527
Loaders	142	.449	187	.531
Machinists	117	.509	89	.655
Oilers	42	.440	69	.525
Platemen	112	.429	181	.530
Repairmen	21	.480	94	.585
Slaters (boys)	345	.303	410	.333
Timber cutters	92	.448	181	.537
Trackmen	26	.455	60	.549
Total	2,513	.453	3,805	.532
Grand total	10,821	.625	20,212	.781

Mr. WATSON of Indiana. Mr. President, all these facts and figures become of value in any consideration of the tariff, which is largely a question of wages. It is quite true that when Germany goes out in the open market of the world to buy wool she must pay the same prices that any other nation pays, plus the cost of transportation; but, nevertheless, as compared with ourselves, there is a vast contrast in the wages paid. We protect our laboring people as against those wages, not as against the raw material. This whole question always resolves itself into a question of wages.

When the Payne-Aldrich tariff bill was framed the rates provided therein were no higher on the whole than are the rates in this bill; indeed, the honorable chairman of the Committee on Finance a few days ago placed a statement in the RECORD showing that on the whole the rates in the pending bill are lower than those in the Payne-Aldrich law, and yet at that time the currency of Germany was normal; at that time the manufacturing industries of Germany were running along full blast, as, indeed, they are now; at that time her laboring people were paid in money at par. Now there is a vast contrast, there is a tremendous difference between wages there and here; and yet we are making the tariff rates no higher now than we made them then. I think the rates are entirely justifiable if we are to take into consideration at all the question of the difference in the conversion costs as between this and competing countries. But these considerations seem to be lost sight of. Some Senators on the other side of the Chamber and some on this side are always discussing the question as to whether or not the pending rate is as high or is higher than the corresponding rate in the Payne-Aldrich tariff law. To me that does not amount to anything. The question is, Are the rates proposed essential to protect the American laboring man in the particular industry in which he is engaged? And that has reference wholly to conversion costs in this and competing countries. Whether the rates were too high in the Payne-Aldrich law or too low in the Wilson law or the Underwood law has not anything to do with the question. Does the rate measure the difference? That is the only question that ought to be asked.

We are all the time making comparisons with previous tariff laws for the purpose of showing that the rates in the pending bill are higher or that they are lower than the rates in some other bill. The question is, Are wages lower over there now? Nobody denies that they are. Are they higher here now? Nobody disputes that. So we must fix such a rate as will save the American laboring man from that withering and blasting competition that comes from vast imports from abroad. That is the sole question which is involved, especially in the wool schedule, where the raw material costs as much to all countries which engage in the business as it costs us.

Mr. LODGE. Mr. President, in connection with what has been said by the Senator from Utah [Mr. SMOOT] and the Senator from Indiana [Mr. WATSON], I desire to read into the RECORD a short quotation from one of the leading news papers of Germany. I think it will interest my friend from Indiana, if he will listen to it.

Mr. WATSON of Indiana. I shall be very glad to hear it.

Mr. LODGE. It is from Vorwärts, controlled by Maximilian Harden, one of the most important newspapers in Germany. The extract which I am about to quote is taken from the Living Age, a magazine published in Boston, of the issue of Saturday, July 22, 1922, on page 188:

> Vorwärts ascribed this covert opposition to the desire of Stinnes and his associates to prevent a rise in the value of the mark, lest it deprive them of the huge profits they are making by selling abroad, at gold prices, goods produced by underpaid German workers whose wages are in depreciated currency. "Foreign trade is becoming the most profitable field of German industry. Our home markets have sunk to comparative unimportance, although manufacturers can extort any price they wish from domestic consumers without fear of foreign competition." However, the flooding of foreign markets has been overdone. German firms now have on hand vast stocks of raw materials and half-manufactured goods, sometimes exceeding many times over the value of their capital stock and reserves; and they welcome a still further depreciation of the mark to enable them to dispose of these stocks in manufactured forms abroad at additional profits.

There is a confession of the whole thing by a leading German newspaper. It shows that the contention as to the volume of German export trade is not an invention of this side of the Chamber.

Mr. GOODING. Mr. President, at this point it might be well to mention also that Germany controls all imports through a license system and that no license may be granted for any particular imports with any assurance that the license will hold good for any length of time. All goods of a character such as the Germans manufacture themselves are entirely excluded from Germany under her license system, which, therefore, amounts to an embargo; so that, so far as our manufactures are concerned, the doors of Germany are closed.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment as amended.

Mr. NELSON. Mr. President, I do not think that there is much value in the statistics which have been cited. Conditions in Germany are in a state of flux. Conditions there affecting wages, as well as the currency, are chaotic. Therefore I apprehend that the figures presented will not be of great value as a permanent guide.

I am unable to bring before the Senate and to translate any statement emanating from Germany; but paragraph 1109 of the bill which we are now considering is written in plain English, and I can state what its provisions imply to me. I may be very obtuse, but, taking the second bracket of the paragraph, the duty provided on cloths valued at not more than 80 cents per pound is 100 per cent. Allowing 33 per cent for the scoured wool, there is left for a margin 67 per cent.

In the next bracket, covering cloth valued at more than 80 cents but not more than $1.50 per pound, on a fabric valued at $1.50 a pound the protective duty is 124 per cent. Deducting the 33 per cent for the scoured wool, leaves 91 per cent protection.

When we come to the last bracket, covering goods valued at more than $1.50 per pound, taking a fabric valued at $1.55 a pound, or $1.51 a pound, for if the value exceeds $1.50 it falls within this bracket, the duty on that is 131 per cent. Deducting 33 per cent for the scoured wool, leaves a margin of 98 per cent.

Mr. President, I have voted for a good many paragraphs in the pending tariff bill. I have been anxious to have considered by the Senate a tariff bill which I could support. I have always been in favor of a moderate protective tariff. At the Chicago convention I was on the committee on resolutions, and was instrumental—in fact, I think I there proposed the language which was written into the platform—in securing the declaration that the measure of protection should be the difference in the cost of production here and abroad. In many paragraphs of this bill the rates exceed that degree of protection, and to my mind profits have been included.

Taking this bill as it has been arranged by the Finance Committee of the Senate in its entirety, it increases the rates of the House bill, and the bill in its entirety is a more radical and more extreme measure, so far as protection is concerned, than even the Payne-Aldrich law.

While I am anxious to support proper tariff legislation, yet it is very hard for me to vote for these excessive rates. It seems that the woolmen in four or five Western States, where the sheep are kept on the ranges, which to a considerable extent are Government land, control the subject of the tariff on wool.

Mr. President, I desire to remind the Senate of the fact that, while States such as New Mexico, Arizona, Wyoming, and Idaho, which are sheep-producing States, are very strong in the Senate, the State of Minnesota, while it has only two Senators here, yet in the Electoral College has more votes than all of the wool States I have mentioned combined.

I had hoped, Mr. President, that protection would not run mad, as it has done. I have sat here quietly. I have voted for many schedules here that I felt were entirely unjustified, hoping against hope that there would be a modification, but every once in a while it seems that the Finance Committee meet, and they come in here with their program for an increase or a change. They get new light as a result of new hearings. I never in all my life saw such a swarm of men as were around the Finance Committee while they had this bill before them. Day after day they came there with their handbags. They swarmed in the corridors, and the bill indicates that most of them got their work in well.

I am very sorry that the committee have gone to such extremes as they have. Take this woolen schedule. It is perhaps in one respect more important to the American consumer than any other schedule in the bill. In the northern half of the country, during a large part of the year, we have cold weather, and we are compelled to wear woolen goods, and the men who use these woolen goods are a great army of people compared with the men who raise the wool, and they all have to suffer more or less because of this excessive duty on wool. It seems to me that there should be a more moderate duty on wool in the grease, for instance. Instead of 11, 12, or 13 cents a pound, as the case may be, it seems to me there should perhaps be a duty of from 5 to 6 cents a pound.

As an illustration of the excessive duties in this bill, I come from an agricultural State, one of the biggest dairy States in the Union, and I have thought that the duties on some of the agricultural products in this bill were too high. I think the duty on wheat in the Payne-Aldrich bill was 20 cents a bushel. It seemed to me that that was ample protection, and yet in this bill they put a duty of 30 cents a bushel on wheat; and on the other cereals—flax, oats, and barley—they have gone to extreme lengths, unnecessarily so. I suppose it is to make a big showing for the farmer and make him believe that he will get all that excessive duty in one form or another, and to make it easier for him to swallow the high duties on manufactured goods and on wool.

It is evident, it seems to me, that the Senator from North Dakota [Mr. MCCUMBER], in his zeal to put such an immense tariff on these agricultural products—higher than we have ever had before, higher than there was any necessity for—has done so simply to oil the protection machine for the woolen schedule and some other schedules in the bill. I do not want to do the Senator from North Dakota any injustice. This is simply a notion of mine. I do not make the charge against him, of course. I would not think of doing that. It is only a notion and a suspicion of mine.

I had hoped that we would have a tariff bill not based on the chaotic and fluctuating conditions which prevail at this time in Europe, but having a tangible and reasonable basis that would make it a permanent measure.

There is nothing more disturbing to business than to have tariff legislation very frequently. This bill is evidently based on the chaotic financial conditions that prevail in Europe to-day, on the low rate of the mark, the franc, the lira, the pound, the crown, and the kroner. We are all hoping and expecting, however, that those financial conditions may change and gradually improve. We know that they have improved in some countries, notably the pound sterling in England, notably the crown in Sweden and Denmark, and I think to some extent the franc has been lower than it is to-day.

It seems to me we ought to base our tariff legislation on a moderate and reasonable amount of protection. This parading of wages in Europe is an old story. Whenever a tariff bill has been up I have always heard the same thing, the same horrible story about the low wages in Europe. To be sure, they are lower than in this country. They are lowest, perhaps, in Germany at this time, owing to their inflated currency and owing to the World War, as a result of which they have great trouble in paying the compensation that is expected by France and the other allied countries.

Some of those who support these rates will go back to the farmers and say, "We have given you 30 cents a bushel on wheat, 40 cents a bushel on flaxseed, so much protection on butter, so much on cattle, and therefore you ought to tolerate these high duties on cotton and woolen goods." I am not as great an expert as the Senator from Utah [Mr. SMOOT] is; I can not go into such minutiæ or particulars; but, on the whole, it strikes me that the wool schedule, from first to last, is the most vicious schedule in this entire bill.

Minnesota is not a wool State in the same sense that the range States are. Our farmers have a few sheep. There are probably between four and five hundred thousand sheep in the entire State. The farmers raise these sheep mainly for the mutton that is in them. Lands are high and sheep are not very much favored, because they are hard on the pasture lands. Years ago I tried to raise sheep on my place, but I was very unfortunate. I did not have much of a flock. I think I had 50 or 75 sheep, but I did not have enough so that I could afford to hire a herder to stay with them or to pen them up at night, and every family in town had a dog and every dog called on my sheep.

Mr. SMOOT. We have coyotes now, and they run wild.

Mr. NELSON. I felt at that time as though I wanted something in the shape of a Payne-Aldrich bill to protect me against the inroads of those dogs.

If we look at this matter of the sheep, the Tariff Commission have some wonderful statistics about the cost of raising sheep. I do not know how they get them. The sheep in the range States are pastured to a large extent on public lands, and except in forest reserves they get pasture free, and where it is not public land it is a species of land that is good for nothing in the world except as a sheep range; and I never could see the validity of the figures that they give us about the cost of raising sheep in those range countries. Where they have free ranges or practically free ranges, where, as in New Mexico, they have such mild winters that they need not feed or stable their stock, and the only cost of taking care of the sheep is a few herders, their food and equipment, and the losses incident to managing the herds, I can not see how in the State of New Mexico, for instance, or in other States where similar conditions prevail, it can cost the amount that the Tariff Commission have figured out. Even in Minnesota, where land is high and where we are engaged in general farming, I do not believe that the cost of raising wool is what they have estimated.

But, Mr. President, this is all "love's labor lost." We are in the hands of the wool Philistines. They have us by the throat, and perhaps it would be wiser for us to take the medicine in silence and turn our heads toward Providence and hope to get relief from that source.

Mr. WALSH of Massachusetts. Mr. President, I have listened with attention to the arguments of the Senators on the other side to hear some justification expressed for the high protective rates named in this schedule and to hear some answer to the objections made by the minority. Stripped of all verbiage, just what did the Senator from Utah and the Senator from Indiana say in justification of these rates? First, the Senator from Utah took in his hand a piece of woven wool fabric and said it cost about $5 in 1920, and that the price now is about $2.50. He drew no conclusion; he made no further reference to the fact but that there had been a depreciation in the price of woven wool fabrics in the American market.

Secondly, he said that the wages paid in Germany are ridiculously low, that they are very, very much beneath the standard of wages paid in this country, and therefore we should levy the protective tariff duties named in this schedule. If it is true that Germany is competing with the American woolen manufacturers, then his 50 per cent ad valorem duty is not worth anything, because it ought to be 1,000 per cent on his own statement. Think of a Senator in charge of this bill presenting such an argument to justify these high rates; first, that cloth has declined in price since the war peak; secondly, that the wages paid in the woolen mills of Germany are scandalously low.

I might just as well come in here and say that the wages paid in India are scandalously low; that the wages paid in China are scandalously low. No woolen cloth comes to America from China, none comes from India, and none of any consequence comes from Germany. Of the few imports into this country last year—1921—as the Senator well knows, only 1 per cent of all the imports of woven woolen fabrics were made in Germany, and all imports comprised only 2 per cent or less of our production.

Mr. STANLEY. Mr. President, has the Senator any data on the capacity of German woolen mills? Before they can overrun this country with German fabrics they must have the looms, and then Germany must collect her raw materials from all over the world. If Germany could supply one-tenth of the things it is feared she will supply, she would be the richest country on earth in natural resources and in industrial equipment.

Mr. WALSH of Massachusetts. Germany has to import practically all her wool. Her consumption of wool before the war was 464,000,000 pounds. She produced only 25,000,000 pounds. She had to import 439,000,000 pounds. The Senator from Utah and the Senator from Indiana did call attention to the fact that, as the mark went down, the wages paid to the laborers of Germany went down, but they refrained from stating that as the mark went down the cost of the imported wool to the woolen manufacturers of Germany went up. They did not tell you that. The Senator from Utah did not tell you what the cost of production was. He drew a red herring across the trail, as the Senator from Minnesota has well pointed out, by shouting about low wages in Germany.

I ask any Senator to state a single argument that has been made in favor of these high protective duties other than the argument that domestic made woolen cloth has depreciated in price and that the wages paid in Germany are exceedingly low. Not one word has been said about competition with or difference in cost of conversion between the only slight competitor we have—Great Britain.

Let us come to the facts. Let me present a table as to costs of cloth. Let me read this table of prices of wool cloths and then ask Senators how, by reading this table, I can justify either an argument for these duties or an argument against these duties.

I have in my hand a table showing the cost of Washington standard clay worsteds, quality No. 200, weighing 68 ounces per yard. I have the price of that cloth as announced by the woolen manufacturers every year from 1911 to 1923. Let me read them to you, the prices of one standard piece of woolen cloth:

Fall of 1911	$1.42½
Fall of 1912	1.47½
Fall of 1913	1.62½
These are under the Payne-Aldrich law.	
Spring of 1914	$1.42½
Fall of 1914	1.37½
Under Underwood law.	
Fall of 1915	$1.55½
Under Underwood law.	
Fall of 1916	$1.82½
Under Underwood law.	
Fall of 1917 (war prices)	$2.37½
Fall of 1918 (war prices)	4.15
Fall of 1919 (war prices)	3.50
Fall of 1920 (after-war prices)	6.02½

That is the year the Senator from Utah quoted, the peak year.

Fall of 1921	$3.80
Spring of 1922	3.10
Fall of 1922	3.05
Spring of 1923	3.32½

Tell me how those figures would justify me in making an argument for or against these protective duties. What is there about those figures that would justify me in saying that these rates are too high, or what is there about those figures to justify me in saying that this is the reason why we have named these high duties in this amendment? Of course, there is no reason.

But they do show something else. They show that if these manufacturers were able to make these standard woolen cloths in 1911, 1912, 1913, 1914, and 1915 for from $1.42 to $1.55, unless there has been a tremendous increase in the cost of production, they were not justified in charging $6.02 in 1920 or charging $3.35 in the present year.

Mr. SMOOT. The wool alone would cost them more than that. It did in 1910. It would cost that if they did not put a single cent of labor on it.

Mr. WALSH of Massachusetts. The Senator means, of course, because of the emergency tariff law it has cost them more in 1922.

Mr. SMOOT. No; I mean to say that wool to-day, quoted on the market in London, not here, is about $1.20 a pound.

Mr. WALSH of Massachusetts. The Senator does not mean to tell me that he claims that wool would cost manufacturers more when we had free wool, except for the war, than when we did not have free wool?

Mr. SMOOT. I did not say that. I do not claim anything of the kind.

Mr. WALSH of Massachusetts. I am claiming that these high prices are attributable to war conditions, and chiefly to excessive profiteering indulged in during the war by woolen manufacturers and other manufacturers, and in part to the increased cost of production during that period of time.

Mr. SMOOT. The Senator referred to the price of those goods in 1911, saying it could not be justified in any other way than as he stated. The Senator must know that you could not buy the wool for that amount, taking into consideration the loss in the wool itself.

Mr. WALSH of Massachusetts. Then, of course, the Senator will admit that the costs he produced here to show that there had been a depreciation in price also proved that there had been a depreciation in cost of production. He produced a piece of cloth and said the price in 1920 was approximately $5, and that the price now is $2.50, and he drew no argument from that fact at all. He did not say that proved we ought to levy these protective duties, or should not levy these duties; why the Senator produced those cloths and why he called attention to them is beyond my comprehension. I might just as well produce here a web of cotton cloth and say that the price in 1921 was $5 per yard and the price this year was $2.50 per yard, and ask for these high duties upon woolen cloths because of the great decrease in the cotton-cloth prices.

Mr. SMOOT. I was interrupted.

Mr. WALSH of Massachusetts. I ask the Senator now what argument he intended to make to support these duties by bringing here a piece of woolen fabric and saying that there had been a decrease in price, any more than I could argue from this price table that there has been a constant fluctuation and change of prices and that the duties ought to be lowered rather than increased.

Mr. SMOOT. When I come to think about it, I was interrupted so many times that I did not conclude what I had to say in relation to that matter. I could hardly make a statement consecutively because of the interruptions, and I think myself that the Senator is justified in asking that question now

The object I had was that it has been stated from one end of this country to the other that if these rates on wool are imposed there will be an increase of $4.75 in the price of a suit of clothes and $7 in the price of an overcoat. When we had free wool in 1920 the price of cloth was a great deal higher than in 1921, when there was no peak price. The prices are lower than they were then, with the 45 per cent rate imposed on the wool under the emergency tariff law.

Mr. WALSH of Massachusetts. Does the Senator say that free wool was the reason for high prices in America in 1920?

Mr. SMOOT. I did not say so.

Mr. WALSH of Massachusetts. Does not the Senator admit that the peak of high prices and wages and the high cost of production was reached in 1920, and that there has been a steady decline since that time?

Mr. SMOOT. I did not say any such thing. There was no emergency tariff law in 1920.

Mr. WALSH of Massachusetts. The Senator called attention to the fact that there was free wool.

Mr. SMOOT. There was free wool in 1920 and up until May, 1921.

Mr. WALSH of Massachusetts. Did not the Senator call attention to the fact that there was free wool, and mean that somebody should infer that free wool was responsible, in part, for the high prices of 1921? Otherwise it could have had no association with the price.

Mr. SMOOT. Not at all. I called attention to the fact that when the emergency tariff bill was passed there was a duty of 45 cents a pound on wool, figuring on the scoured basis, and with that 45 cents a pound on the scoured basis for 1921 the price was higher than it is this year.

Mr. WALSH of Massachusetts. Will the Senator agree with me that when you levy high protective tariff duties on some article that has been on the free list one of two things is going to happen, either there is going to be an increase in the price of the article or there is going to be a check on the decrease in price by the levying of the duty? Will the Senator agree to that proposition?

Mr. SMOOT. I will agree that it is true in many cases. For instance, where there is no competition in the United States a duty will increase the price, I have no doubt, unless the market is absolutely controlled by some foreign country charging us just exactly what they want to charge. But I can not say that it will increase the price in all cases. It does not.

Mr. WALSH of Massachusetts. Of course, it does not as to some agricultural products.

Mr. SMOOT. Competition is what has brought the prices down to where they are to-day. The Senator knows that the prices of these wools are higher than they have been for years and years, with the exception of the period when the Government was purchasing the wool for war purposes.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER (Mr. STANFIELD in the chair). Does the Senator from Massachusetts yield to the Senator from Kentucky?

Mr. WALSH of Massachusetts. I yield.

Mr. STANLEY. I understood the Senator from Utah to state that we produce half of the wool consumed here and buy the other half. Is not that the fact, that we buy about half of it?

Mr. SMOOT. No; we buy about 40 per cent of it.

Mr. STANLEY. Well, that is nearly half. If we buy 40 per cent of our wool and pay a duty of 35 cents per pound on it, does not the Senator believe the 35 cents is added to the price of wool in the country?

Mr. SMOOT. If there is a demand for that particular kind of wool, I do not think it would be added. I want to give an example to the Senator. For instance, to-day scoured wools are selling at 41 cents on the Boston market, and yet there is a duty of 45 cents on those wools. That is the example I had in mind, I will say to the Senator, when I said "if there is a demand for the wool."

Mr. STANLEY. Under ordinary circumstances?

Mr. SMOOT. When the market has to buy it.

Mr. STANLEY. Under normal conditions?

Mr. SMOOT. When the market can not get it from this country, or when there is an active market in the foreign lands all fighting for the wool, then they will get the duty.

Mr. STANLEY. If it did not result in an increase in price, there would be no reason to produce it.

Mr. SMOOT. Yes; in a case like that.

Mr. STANLEY. I understood the Senator to say that the woolen mills make a profit upon the yards produced. It does not matter whether they are weaving wool that costs $1 a yard or wool that costs 10 cents a yard, they charge so much for converting the wool into cloth.

Mr. SMOOT. Those are extremes that never occur.

Mr. STANLEY. But that is the system?

Mr. SMOOT. The system is to charge so much per yard.

Mr. STANLEY. So much per yard for reducing the wool to the cloth condition? They charge for the process?

Mr. SMOOT. Yes; and the price regulates that in the end.

Mr. STANLEY. Then, if it cost 30 cents or 40 cents or $1 a yard to change the wool into cloth, the cloth would cost just $1 a yard more, or 50 cents a yard more, if there was 50 cents worth more of wool in the cloth. Is not that true?

Mr. SMOOT. Yes.

Mr. STANLEY. If there is a charge of $1 for converting the wool into a yard of cloth——

Mr. SMOOT. That is, provided the full duty amounted to that and they had to pay the full duty.

Mr. STANLEY. If the wool in the cloth costs $1 more, we would have to pay $1 more per yard; if it costs $1 less, we have $1 less to pay.

Mr. SMOOT. Provided they have to pay the full duty.

Mr. STANLEY. Then, under normal conditions the 35 cents about which the Senator is talking will necessarily be reflected in the cost of the cloth when it passes from the woolen mill.

Mr. SMOOT. Certainly.

Mr. STANLEY. And the whole compensatory duty is based upon that assumption.

Mr. SMOOT. Why, certainly. If we give a compensatory duty on long-staple cotton, it is upon the same principle.

Mr. STANLEY. And that is just as bad as this.

Mr. SMOOT. I would say it is worse than this, because it is a fact that in that case, of course, we do not produce any such cotton in this country at all, and they have the market at their command, anyhow. I said we produce no such cotton in this country at all; I mean outside of a little that is raised in Arizona.

Mr. STANLEY. I agree with the Senator that the duty on long-staple cotton is worse, if anything, than the duty on short-staple wool, and that both are an abomination in the sight of the Lord.

Mr. CARAWAY. Both are as bad as they could possibly be, and therefore they could not be any worse.

Mr. STANLEY. I believe long-staple cotton is really the worst, because it is reflected in a greater charge.

Not to interrupt the Senator from Massachusetts unduly, I wish to suggest this proposition, and then I shall cease to divert him. I want to ask the Senator from Massachusetts if the Tariff Commission have made any figures upon the cost of producing the cloth in Germany and in England? If it be true, as the Senator said, that no cloth is imported from Germany to amount to anything and that the Germans have no mill capacity, this is purely a bogey man. The Germans could not build cotton mills to enter into the export business.

Mr. SMOOT. I did not understand the Senator from Massachusetts to say that they had no mill capacity in Germany.

Mr. STANLEY. None for export purposes.

Mr. SMOOT. They imported over 400,000,000 pounds of wool. Our consumption, all that we have used in the United States, including all that we have produced and all that we have purchased, was about 575,000,000 pounds in the grease.

Mr. STANLEY. In addition to what we raise here?

Mr. SMOOT. No; that is all of it. We only raised about 230,000,000 pounds, and with importations and all, the highest year ever known was 575,000,000 pounds. So Germany certainly has some capacity for manufacturing woolen goods.

Mr. WALSH of Massachusetts. I want to call the attention of the Senator from Kentucky to the imports of woven fabrics and wool. No one until this day has ever considered that we competed with any country except the United Kingdom in the matter of wool fabrics. The Tariff Commission, of course, has made no investigation about cost in Germany, because there are no importations from Germany. This is done to camouflage the real facts with the public. It is all done to make it appear to the working people of the country that if we did not levy these high duties, which will mean an increase in the cost of their clothing, they would be obliged to accept reductions in wages. The record of the imports tell the story better than anything I can say.

Mr. SMOOT. Mr. President, I simply want to say in that connection, if the Senator will yield to me——

Mr. WALSH of Massachusetts. I yield.

Mr. SMOOT. The Senator must remember that I stated that under conditions existing to-day even in Germany, with the way she is situated to-day, we are not making a tariff for that condition. It is for the future that we are making the tariff.

Mr. WALSH of Massachusetts. The Senator's argument and the argument of his colleagues is that this tariff bill is made upon fear and not facts; that this tariff bill is made, as he just said now, for fear of the future and not upon facts. He does not attempt to give facts. He can not give us facts to justify these rates. There are no facts to justify these high rates. They present a fear of competition with low wages in Germany, not that they have any sympathy for the workingmen, not that they care for the working people, but, as a matter of fact, it is done as a cloak to help them levy duties which they have agreed to levy in the interest of those producers who would benefit by high protective duties.

Now, let us return to the question of imports, because I want that cleared up on the record. I want to show that there are substantially no imports coming into the country from Germany. I am going to give the figures for the years 1913 and 1921.

The total amount of woolen dress goods, women's and children's, imported into this country in 1913 was $3,321,626. Paragraph 1108 deals with dress goods and the pending paragraph deals with cloth. The total amount of cloths imported in 1913 was $4,488,477, a total importation of $8,210,073 worth of wool fabrics. From Germany there came $521,141 worth of dress goods and $940,906 worth of cloth, making a total importation from Germany of $1,462,047 worth of dress goods and woolen cloth. That was 17 per cent of the total importations of that year under the Payne-Aldrich law and before the Underwood law became operative.

In 1921 the total importations of dress goods were $3,189,458, the total importations of woolen cloths were $11,353,352, making a total importation in 1921 of $14,542,810 worth of woolen fabrics. From Germany there came $182,772 worth, which represents 1.3 per cent of all the imports. In 1913 there were 17 per cent of the imports came from Germany and in 1921 there were 1.3 per cent of the imports came from Germany. The total imports for the year 1921 were negligible compared to the total production. I think they were something less than 2 per cent. When I return to the line of argument which I want to pursue after I finish answering what has been said by those on the other side of the aisle, I shall give that exact figure. But here we have only 1 per cent of our imports coming from Germany and all our imports absolutely of no consequence and no factor in influencing or controlling the price in the domestic market.

Mr. POMERENE. Mr. President, will the Senator refresh my mind a moment? In 1913 was not the duty on this class of goods 50 per cent?

Mr. WALSH of Massachusetts. It was 55 per cent.

Mr. POMERENE. And in 1921 it was 35 per cent?

Mr. WALSH of Massachusetts. In 1921 the protective duty was 35 per cent. My notes to which I referred just a moment ago remind me of the fact that there were less importations in 1921 of woolen cloth than there were during the time when the Payne-Aldrich law was in effect.

Mr. SIMMONS. Mr. President, I would like to ask the Senator if, during the whole year of 1921, when we had the pending bill before the committee, the demand for the increased duties was not based upon the alleged claim that Germany and other European countries, especially Germany, were flooding this market with German goods?

Mr. WALSH of Massachusetts. The claim was made repeatedly and repeatedly, in the face of the record showing a great decrease in our imports, that the market was being flooded with manufactured articles of various kinds and therefore the prices at home were likely to be driven down by reason of foreign competition.

Mr. STANLEY. Mr. President——

Mr. WALSH of Massachusetts. I yield to the Senator from Kentucky.

Mr. STANLEY. In that same connection there has been talk here about Germany utilizing her war stocks to flood this country. It is a notorious fact that during the war Germany developed the use of paper to the highest degree ever known in the world. She made twines and clothes out of paper. She buried the dead in paper clothing. Her wool was so entirely exhausted that at the close of the war Germany was literally clothed in paper. The idea of people clothed in paper sending their woolens to this country is absurd.

Mr. SIMMONS. At an earlier stage of the remarks of the Senator from Massachusetts he gave the Senate the prices, I think, of certain fabrics.

Mr. WALSH of Massachusetts. A certain fabric. I gave the price every year for the last 10 years.

Mr. SIMMONS. Under the Payne-Aldrich law the price he gave for that cloth was $1.40, I think, and the present price or the price in 1921 was what?

Mr. WALSH of Massachusetts. Between $3 and $3.50.

Mr. SIMMONS. That is, more than twice what that fabric was selling for under the Payne-Aldrich law before the war?

Mr. WALSH of Massachusetts. Yes.

Mr. SIMMONS. Now, can the Senator give us any reason or can the Senator conceive of any reason, when that fabric is selling to-day in the American market at more than twice what it sold for before the war under the Payne-Aldrich law, why we should increase the protection upon it under those conditions?

Mr. WALSH of Massachusetts. Of course, there is no reason at all, and these increased prices merely indicate excessive

profiteering, with some increase, of course, in the cost of production.

Mr. SIMMONS. Certainly we ought not to be levying duties for the purpose of enabling the manufacturers of that particular product to sustain a price which is more than 100 per cent over the price at which the article sold anterior to the war.

Mr. WALSH of Massachusetts. Of course the Senator from North Carolina is absolutely correct in his statement.

Mr. President, I desire to discuss in detail this paragraph, which includes the heavier fabrics, or what are technically known in the trade as cloths; also the bulk of the flannels—i. e., those weighing over 4 ounces per square yard.

The rates of duty imposed are graduated upward by steps as the value of the goods per pound increases.

The first bracket covers goods valued at not more than 60 cents per pound, and levies a compensatory duty of 26 cents per pound and a protective duty of 40 per cent.

The second bracket covers goods ranging from 61 cents to 80 cents per pound in value, and imposes a compensatory duty of 40 cents per pound and a protective duty of 50 per cent.

The third bracket covers goods valued at from 81 cents to $1.50, and imposes a compensatory duty of 49 cents per pound and a protective duty of 50 per cent.

The fourth bracket covers goods valued at more than $1.50 per pound, and imposes a compensatory duty of 49 cents per pound and a protective duty of 50 per cent.

It will be noted that both the compensatory and protective rates are graduated upward with the successive increases in the value of the cloths. The proper compensatory duty, according to the findings of the old Tariff Board, assuming a 33-cent duty on clean wool, would be 49 cents per pound on cloths composed wholly of virgin wool. On cloths valued at not more than 80 cents per pound, however, the assumption in this paragraph is that the content will not be wholly of new wool. Consequently the compensatory duties given are slightly more than half the compensatory which is given on goods valued at over 60 cents and about four-fifths of the full compensatory duty in the case of goods valued between 61 and 80 cents per pound. These allowances are, of course, estimated only and not based upon scientific accuracy.

Goods valued at more than 80 cents are assumed to consist wholly of virgin wool, and therefore carry a full compensatory duty of 49 cents per pound.

COMPARISON OF PROTECTIVE DUTIES IN SENATE AND HOUSE BILLS.

As in the case of paragraph 1108, it will be noted that the valuation brackets in paragraph 1109 have been cut down from those in the House text in order to make allowance for the change in basis from American to foreign valuation. The increases of protective rates in the Senate text over those in the House text distinctly exceed the ratio by which the valuations in the Senate bill were reduced below those in the House bill. In other words, even making allowance for the change from American to foreign valuation, it seems quite apparent that the protective rates in the Senate bill are distinctly higher than were those in the House bill. If the same ratio had been used in translating the protective rates as in changing the valuation brackets, the rates in the Senate bill would have been as follows:

First bracket would have been 21.6 per cent instead of 40 per cent.
Second bracket would have been 28.56 per cent instead of 50 per cent.
Third bracket would have been 33.6 per cent instead of 50 per cent.
Fourth bracket would have been 38.5 per cent instead of 50 per cent.

The very fact that the protective rates in the Senate bill are double, or more than double, those in the House text indicates very strongly without any further analysis that the rates in the Senate bill are substantially higher.

COMPARISON WITH THE EMERGENCY ACT.

The emergency tariff law imposed a compensatory duty of 45 cents per pound upon all wool manufactures—including the cloths, and so forth, covered in this paragraph—in addition to the protective rate of 35 per cent which already existed in the Underwood law. Considering that the emergency duty on raw wool became effective only by slow degrees as the stocks of wool in the country were gradually exhausted, and that the skirting joker has not even yet become effective, it is quite apparent that this compensatory duty of 45 cents per pound has thus far, at least, contained a considerable amount of protection. Yet it does not appear that imports of woolen and worsted cloths have been seriously affected. The monthly importations since the emergency law was passed have been substantially the same as those before it was passed, except for the two or three months which immediately preceded the enactment of the emergency law. (See the report of the Tariff Commission upon the operation of the emergency tariff law.)

The fact that this duty of 45 cents per pound, which, under the conditions here described, was largely a protective duty, at least during the earlier months of the emergency law, did not curtail imports would appear to indicate that the imports of cloths are largely supplementary and that they do not compete directly with goods made in this country. Indeed, it is a well-known fact that imports of wool fabrics have generally consisted of goods made from fine yarns or fancy woven and special cloths largely used by custom tailors, such as Scotch and Irish tweeds, superior face goods, such as English broadcloths, and other special fabrics of a type not duplicated in this country. Most of these fabrics sell at a higher price than domestic goods. They are sold on the basis of superiority and established reputation and amount to a very minor factor of domestic consumption, and they compete only with the highest classes of goods which we make, or not at all.

COMPARISON WITH THE UNDERWOOD ACT.

The Underwood law imposed a straight ad valorem duty of 35 per cent upon cloths, as upon other wool fabrics, with no compensatory, since wool was admitted free. Upon the lowest classes of cloths covered in paragraph 1109 of the Senate bill there is a differential of 5 per cent between the Senate rate and the Underwood rate, the Senate rate being about 14 per cent higher. In the next two brackets, however, the differential between the Underwood law and the Senate bill is 15 per cent and on the highest bracket 20 per cent, the rates in these three brackets being 40 to 57 per cent higher than the rates in the Underwood bill, just as in the case of dress goods.

Yet, even under the duty of 35 per cent imposed by the Underwood law, it can hardly be contended that imports have seriously interfered with the prosperity of the domestic industry at any time. It is true that immediately after the enactment of this law there was a substantial increase in the imports. From an annual average during the period from 1910 to 1913 of 4,742,081 pounds imports increased to 16,439,655 pounds during the calendar year 1914.

Considering that imports prior to the enactment of the law had been exceedingly small in relation to our consumption and that the imports during the first half of the year included a large amount of goods that had been held back in anticipation of a lower duty, this 16,439,655 pounds is not a formidable figure.

(It should be noted that the rates in the wool schedule did not go into effect until January 1, 1914.)

Indeed, after the calendar year 1914 imports fell off sharply, nor has the postwar importation reacted to a point much beyond the importations under the Payne-Aldrich law. In 1921, for example, the imports were only about 6,300,000 pounds. These figures do not bulk large in contrast with a combined production of cloths and dress goods amounting to almost 300,000,000 pounds in 1919 and over 500,000,000 square yards in 1914.

DIFFERENCE IN COST OF CONVERSION HERE AND ABROAD.

Now, Mr. President, I want to turn to the arguments advanced by the proponents of this amendment, if I may properly call them such. There has been nothing whatever said in justification of this rate except the presentation of a table showing the wage scale in some woolen mills in Germany. The Senator from Utah [Mr. SMOOT] made a very remarkable admission in reply to a question by me. He said he had paid no attention to the effect of war conditions upon this industry; that he has not investigated to ascertain the financial status of those engaged in the domestic industry. The Senator from Utah may justify the levying of high protective duties simply upon the request of manufacturers, but the American people, who must pay the tax, want to know upon what basis, by what reasoning, have these rates been determined; and where is the evidence to show the need for such protection to this industry.

I now make the assertion—and I challenge contradiction—first, that the difference in conversion cost between woolen cloth woven in America and that woven in the United Kingdom does not justify this protective rate of 50 per cent, and I call as authority to confirm my statement the information furnished by the Tariff Commission itself, which I gave in detail when I was discussing the previous paragraph on dress goods.

I also contend that the prices of foreign fabrics comparable with the American fabrics do not justify the protective duty that it is proposed to levy in this instance.

I have in my hand the table prepared by Mr. Culbertson when he was engaged as a tariff expert. He is now a Republican member of the Tariff Commission. The table, however, was prepared when he was a tariff expert in 1913, when at the request of the Tariff Commission he investigated the prices of fabrics falling within this paragraph which are produced in

America and similar fabrics produced in the United Kingdom, comparing the price of the foreign fabrics with the price of the American fabrics in order to determine what ad valorem protective duty was justified. The table, which is printed in House Document No. 50, first session Sixty-third Congress, discloses the following information:

Sample number.	Name of cloth.	Ad valorem rate necessary to cover difference in conversion cost.
		Per cent.
13	Men's fancy wool suiting	33.16
42	Fancy woolen overcoating	32.72
21	....do	32.45
28	Men's fancy woolen suiting	41.00
9	Woolen tweed	26.79
22	Men's blue serge	34.12
23	Men's worsted serge	37.79
37	Black clay worsted	27.44
44	Wool overcoating	24.02
46	Uniform cloth	21.94
36	Men's blue serge	22.50
42	Men's light weight blue serge	34.00
45	Men's fancy half worsted suiting	28.05
48	Men's unfinished worsted	35.62
49	Men's serge	37.10
53	Men's unfinished worsted	42.39

The samples here chosen from the table to which reference is given are fairly representative of the entire group of 53, some of which have been included in the discussion above relating to dress goods (paragraph 1108). Out of the entire list of 53 samples, the highest ad valorem duty necessary to cover the difference in conversion cost is 46.07 per cent in the case of sample No. 34, a fancy worsted suiting, while the minimum is 21.15 per cent in the case of sample No. 24, a fancy cotton warp worsted.

The Tariff Commission made a survey of the British woolen industry in 1920, and they find in their report—I quoted it this morning—that there has been a decrease in the conversion cost since 1911.

Even at a glance it is apparent that upon cloths, just as upon dress goods, the 35 per cent in the Underwood bill constitutes a high average for the cloths listed in this table. That the changes which have occurred in prices and in labor costs since these figures were computed do not invalidate them for our present purpose has already been explained in connection with the dress goods paragraph (1108).

Mr. WALSH of Montana. Mr. President, before the Senator proceeds I should like to remind him that the distinguished Senator from Indiana [Mr. WATSON] stated a few moments ago that there was no purpose on earth in imposing these duties except to take care of the poor laboring man. The Senator from Indiana unfortunately is not now in the Chamber. I should like to hear what he has to say about the figures now presented for the second time by the Senator from Massachusetts, showing that the total difference in the conversion cost is not to exceed 33⅓ per cent.

Mr. WALSH of Massachusetts. Mr. President, no Senator has taken the floor here to dispute the claim that the conversion cost does not justify this duty; no Senator has taken the floor to dispute the fact that there are no imports coming into this country of such volume as to threaten the domestic industry; no Senator has taken the floor to dispute the fact that the difference in the price of the foreign product and the American product does not justify this high protective tariff duty; and no Senator will take the floor to make any such contention. It was almost pathetic to listen to the attempt to urge justification for this rate which we witnessed here a short time ago, when a piece of cloth was lifted before the eyes of the Senate, and it was said that the piece of cloth cost so much in 1920, and it cost so much now; ergo, there should be a protective duty. How much? Fifty per cent. How was the conclusion reached that 50 per cent should be the rate? There has been no attempt whatever to determine the rates here upon any basis of honest calculation and of disinterested information.

Mr. WALSH of Montana. Mr. President——

Mr. WALSH of Massachusetts. I yield to the Senator from Montana.

Mr. WALSH of Montana. I merely wish to add the remark that there is only one of two conclusions which may be drawn from the remarks of the Senator from Indiana, namely, either that he does not know the facts as disclosed by the Senator from Massachusetts, or else there must be some other reason besides concern for the welfare of the workingman prompting the imposition of these high duties.

Mr. WALSH of Massachusetts. I desire now, Mr. President, to proceed with another branch of the subject.

COMPARISON WITH THE PAYNE-ALDRICH ACT.

The Payne-Aldrich law imposed duties of 33 cents per pound, plus 50 per cent; 44 cents per pound, plus 50 per cent; and 44 cents per pound, plus 55 per cent, respectively, upon cloths according as the valuation increased. It is thus apparent that in the Senate bill, except for the lowest bracket—in which the protective rate is 40 per cent—the protective rates are practically identical with those in the Payne-Aldrich Act, while the compensatory rates are even higher by virtue of the increase in the duty upon raw wool.

It is not fair, however, to say that the net protection to the manufacturer afforded by the Senate bill will be as high as in the Payne-Aldrich law, for here again, as in the case of dress goods and in general of the entire wool schedule, the compensatory duties in the Payne-Aldrich law included a large amount of concealed protection, so much, in fact, that a decrease in the net protection to the manufacturer much greater than has been made in the Senate bill would need to occur to bring the rates within the realm of moderation and reason.

Nowhere in the old Schedule K did this concealed protection operate to greater advantage to the manufacturers than in the case of wool cloths. Upon the absurd assumption that, on the average, it took 4 pounds of grease wool to make 1 pound of cloth, the compensatory duty, when added to the high ad valorem protective rates, amounted to almost complete prohibition. On wool cloths, where there was a very liberal use of substitutes and adulterants like shoddy, noils, and cotton, the reduction of the ratio from 4 to 1 to 3 to 1 did not by any means remove the protection contained in the compensatory duty. In fact, the Tariff Board found that this concealed protection served to keep the lowest valued cloths out of the country. In other words, it discriminated against those of modest means who were compelled to purchase the cheaper goods. For example, the board found that the compensatory duty alone on cloths valued at 44 cents or less per pound was 99.59 per cent of their value in 1911, that on cloths valued at from 41 to 70 cents per pound the compensatory duty was 73.71 per cent of their value, and that on cloth valued at over 70 cents the compensatory duty was only 39.17 per cent of their value; yet the compensatory rates for the lowest valued cloths were 3 to 1 as against 4 to 1 for those of higher valuation.

Under the circumstances here described it is not surprising, therefore, that imports under the Payne-Aldrich law were very small compared with our domestic production. As already stated in the discussion of the Underwood law, imports during the period 1910 to 1913 averaged 4,742,081 pounds annually; in other words, about 4 per cent of the total production of cloths and dress goods combined in 1914. The census of 1914 does not segregate cloths from dress goods, but the total production of cloths in 1909, it will be noted, was 242,665,949 square yards. (See report of Tariff Board on Schedule K, pp. 127–129.)

RECAPITULATION.

Mr. President, I am now going to summarize for the RECORD, as I did this morning, the objections to the rates proposed, and then I am going to proceed to discuss a very important aspect of this question; I am going to say something about the financial standing of some of the beneficiaries of this protective tariff duty.

From the discussion in which I have indulged the following conclusions may be drawn:

1. That the protective rates in the Senate amendments are a substantial increase over those levied in the House bill.

Would you not think, Mr. President, at least that the committee would give us the information which they had and which the House did not have? The House is Republican; the Members of the House are responsible to their constituents; the Members of the House may have their votes challenged and be asked to explain why they fixed the rates proposed by them. Would it not be reasonable to expect, at least, some information or the indication of some reason why the Senate Finance Committee increased the House rates?

2. That the emergency duty of 45 cents per pound, which was intended as a compensatory duty but which contained a large amount of protection, did not seriously affect the small importations of wool cloths which were already coming in under the 35 per cent imposed by the Underwood law, a fact which can be readily understood when it is realized that a very substantial proportion of the imports, always negligible, are supplemental and not competitive in character.

Even the levying of a 45 per cent compensatory duty, plus a 35 per cent protective duty, did not stop these importations because they are not competitive at all; they are made up of special cloths. Now, let me follow that. The record shows that even when an increased duty of 45 cents a pound was put

upon these woolen cloths, the importations came in just the same; they had to come in, for that character of cloth did not compete with the American trade at all.

3. That the protective rates to the manufacturer in the Senate bill are an increase over the Underwood rate of from 40 to 55 per cent, although it was shown in House Document No. 50, first session Sixty-third Congress, above referred to, that the average protective rate required on these cloths in 1913, at the time when the old Tariff Board made its report, was even less than the 35 per cent rate fixed in the Underwood law, and that there has been no substantial change of conditions which would materially increase the amount of the rate required.

There has been no attempt made to dispute that. They will not even say that it is not so. They will not even deny these facts. There is not a denial, but only an exhibition of a piece of cloth. Think of answering a challenge such as I am making here by saying, "Here is a piece of cloth that cost so much two years ago, and costs so much now," and "Here is the scale of wages over in Germany." That is the answer that is made to your argument.

I want this in the RECORD, so that the country will know just what is happening here. for, after all, our plea must be made to the country. So far as changing votes here is concerned, we are wasting our time and our energy; but we have an obligation to our fellow citizens to stop what will overthrow this Government if it keeps on—the levying of unwarranted and unjustifiably heavy tax burdens upon the American people. If I should be asked what, in my opinion, would lead to dangerous attacks upon our free institutions—and God forbid that such attacks may ever come—I should say that in my opinion it would be the imposition of taxes upon the people which resulted in favors and privileges and gifts to the few at the expense of the many, and to the neglect of our Government to limit the watering of stocks and the creation of monopolies and trusts so that a combination of a few would be able to control prices and profiteer mercilessly at the expense of the American people.

Mr. STANLEY. Mr. President, at that point I wish to suggest to the Senator, because he is touching a very interesting phase of this situation, that perhaps the socialist has a better argument and a better cause than the protectionist, and the socialist is doing but common justice in going from rank protectionism to sane socialism; and I am not a socialist.

If an industry is to be maintained by taxation and not by reason of the fact that it is indigenous to the soil and is producing well, if the source of its wealth is taxation, is it not better that that industry should be operated for the benefit of the people who are taxed than for the benefit of the few men who eat those taxes and enjoy them? Has not the socialist the better of the argument? And have we any answer to the socialist who charges us with having maintained a wealthy and privileged class not by virtue of their own industry but by the absolute, indefensible, and partial operation of the law?

This is socialistic—worse than socialistic. It has all the evils of socialism and none even of its apocryphal virtues.

Mr. WALSH of Massachusetts. Mr. President, to be unable to justify the levying of a tax upon the people of the country is bound to lead to unrest and discontent and dissatisfaction; and every time we invoke the taxing power to bestow favors upon groups of our citizens at the expense of the many we are doing a very dangerous thing to free institutions.

I do not want, however, to depart from my speech, interesting as that phase of this question is.

4. That the total compound rates in this cloth paragraph are never less than double the total rate in the Underwood bill, and on the lower-priced goods are more than three times the Underwood rate. That, of course, means that the Underwood rates are only protective, while the rates in this bill are both compensatory and protective.

5. That while the protective rates in the Senate bill are substantially the same as in the old Schedule K of the Payne-Aldrich law, the net protection accorded to the manufacturer is probably less, owing to the large amount of concealed protection in the compensatory rates of the Payne-Aldrich law.

6. That the cost to the consumer has been increased to a higher point than ever before, for, as has been stated elsewhere, the compensatory duty is as much of a burden as is the protective duty, and the sum of the two is greater in the Senate bill than in the old Schedule K.

7. That there is no danger of foreign competition to the domestic manufacturer, by reason of the fact that there are no importations of consequence..

Now, I am going to ask this question: Does the conduct of this business by some engaged in it in recent years entitle them to this gift or subsidy from the American people? Does it become us, with the information available as to the extent to which profiteering was carried on in this country during the war, to turn about now and say: "For your success in profiteering we are about to bestow upon you, in order that you may continue your profiteering, an increased measure of protection to your industries"?

I pointed out yesterday that 25 per cent of the domestic production of dress goods and woolen cloths was in the hands of the American Woolen Co. I pointed out the fact that in the last 25 years they have purchased and consolidated over 50 independent woolen manufacturing units. I called attention to the fact that they are still consolidating; that last year they consolidated three more big woolen mills, and that they must have now at least 60, and I do not know how many more. I called attention to the fact that levying an unwarranted and an unjustifiable and an excessive protective tariff duty is an invitation to monopoly. Why?

If a high protective tariff duty is levied, it shuts out imports and competition from abroad, and the only thing necessary in order to control absolutely the home market is to stifle competition at home. The next step is to corral all the domestic manufacturers into one powerful organization to stifle domestic competition, control the home market, and dictate prices to be imposed upon the American people.

This bill is helping to bring about that condition. Previous protective tariff bills have helped to bring it about. It will not be long before the woolen industry will be one big monopoly. They already can destroy any small unit, any little woolen mill.

I do not know whether or not the Senator from Kentucky was here a few days ago when I called attention to the fact that the census showed that 40 years ago we had 4,000 little woolen mills in this country, all over this country, good American citizens carrying on an honest-to-God mill business in these little woolen mills, employing men in the same neighborhood where they lived, paying decent wages, and conducting a profitable business. With the coming of these high protective tariff laws during the last 40 years that number has been reduced to 900; yet the capitalization and the amount of money invested in the woolen manufacturing industry has increased tremendously, but the little unit is gradually being destroyed. Why? The big units are in a position in one way or another to stamp out competition. As the Tariff Commission report shows in discussing the industry, the American Woolen Co. now names the prices of dress goods and woolen cloths, and all the others follow. No independent company names its prices each season until the American Woolen Co. speaks.

I must hasten on. I am going just to develop two thoughts and close the debate upon this paragraph, and I am going to have very little to say about the rest of this schedule; but it is a good opportunity to call attention to the absence of any investigation by anybody to find out whether these industries or these producers—it makes no difference—were in such a financial condition that they needed protection. I tell you the American people will not permit themselves to be taxed in the manner that it is proposed to tax them here without some information that the distressed condition of the industry requires and necessitates protection.

Mr. SIMMONS. Mr. President, has the Senator any data showing the profits that these mills were making?

Mr. WALSH of Massachusetts. Yes. In 1920 I prepared a speech which I delivered in this Chamber on May 18, 1920.

Before making that speech I made some investigation in reference to the extent to which profiteering had been carried on in this country during the war and up to May, 1920, and collected some very valuable information. I made an analysis of the extent of profiteering in the fuel, food, clothing, and iron and steel industries, and I discovered that it was very difficult to get very much definite information, because the profiteering corporations had resorted to many successful devices to conceal from the public the true relation between their net incomes and the actual investments on which the percentage of profit should justly be computed. I found that one of the ways resorted to for the purpose of hiding their profits was to pay large salaries. One corporation paid to its president, two vice presidents, the chairman of its board of directors, and two office managers, six executives altogether, an average of $200,000 apiece, aggregating $1,189,000. I cite that only as an illustration, to show the extent to which some of these beneficiaries have gone to hide their profits.

An article published by a former member of the Federal Trade Commission on war profits of the "patrioteers" shows many secret methods resorted to to hide profits, and he makes this comment:

So far as the income and excess-profits taxes are concerned, the Treasury Department is an impenetrable veil, through which no citizen is permitted to see.

Calling attention to the fact that the disclosures made to our Government are secret and if they were made public there would be much very valuable information available. But the Finance Committee could have seen those returns. There is provision in the law permitting the Finance Committee to ask the President to have furnished to that committee the returns of those corporations. The committee could have summoned their officers before them. The witnesses who appeared, saying "Our industries need this rate of protection," could have been asked by the committee, "What are your earnings? What are your profits? What dividends have you been paying?"

Mr. POMERENE. Did they do it?

Mr. WALSH of Massachusetts. In not one instance was it done. There was no attempt made to do so. The committee did not want it. That is why I asked the Senator from Utah the question to-day, and that is why the Senator from Montana was also prompted to ask it, because the same thought was going through his mind—if these increased prices of woolen cloths show, in part, the extent to which profiteering was indulged in during the years of the war, and during the years the high prices were maintained.

Mr. SMOOT. Does the Senator say that I admitted that the committee has made no endeavor at all to find out any reasons why these rates were imposed?

Mr. WALSH of Massachusetts. No. I said the Senator had made no effort to find out the profits of these corporations; had made no effort to find out what dividends they paid; had made no effort to find out what salaries their officers received; had made no effort whatever to determine whether they are in financial distress or not. Am I correct in that?

Mr. SMOOT. The Senator, of course, is correct in his statement that the committee did not go into the question of the profits the companies have made in the past. I suppose the Senator would mean by that to infer that we could take the American Woolen Co., and one or two other of the large woolen mills and compare the profits of all the other mills in the United States with the profits they made during the war. That would be unfair. I want to say to the Senator that, as far as the rates in the bill are concerned, they are not nearly what the Reynolds report would justify, and the Senator knows that that report was made at the instigation of the Congress. I have sample after sample which the Reynolds committee submitted to the Committee on Finance with the results and the tabulations, and according to their figures the duty of 50 per cent would not be sufficient to afford protection.

Mr. WALSH of Massachusetts. What the Senator is saying is that the committee were furnished by the Reynolds committee with information as to what the prices of various products made in this country were abroad and in this country, as of August, 1921.

Mr. SMOOT. Yes; and I say that is what we had when we had the bill under consideration. As I have said before, the rates which were named and the changes which have been made have been due to changes in conditions which have taken place. The Senator also will admit that the compensatory duties have been based upon the reports of the Tariff Commission absolutely.

Mr. WALSH of Massachusetts. I asked the Senator if he made any investigation of the profits and earnings of these companies, and he has admitted he did not.

Mr. SMOOT. The committee did not make that investigation, and I do not see that the committee could have gotten any information which would have assisted them at all in making the rates, either in the case of the woolen business or any other business in the United States.

Mr. WALSH of Massachusetts. I am going to proceed now to show what the chief beneficiary of this protective duty has made, and show that the woolen industry, honestly managed, never needed such high protective duties, and does not need any such high rate as is now proposed.

Mr. SMOOT. Does the Senator mean that the tariff bill ought to be passed with only the American Woolen Co. in view?

Mr. WALSH of Massachusetts. Evidently the Senator anticipates what I am going to say. He evidently is not going to be surprised at the figures which I will give, showing the extent to which stock watering has been carried on and stock dividends and excessive dividends paid. He is not surprised at all. If the American Woolen Co. can pay, upon the stock which they have expanded and expended upon earnings, the present dividends they are paying, I contend that an honestly managed small industry can make money without these high protective duties.

Mr. SMOOT. The Senator has a perfect right to make that statement, and I have no doubt he believes it.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Kentucky?

Mr. WALSH of Massachusetts. I yield.

Mr. STANLEY. Mr. President, I want to call the Senator's attention to one fact at this point, and I think the Senator from Utah will agree with me. The Senator intimates that a great industry like the American Woolen Co. can make cloth much cheaper than a small mill can. It is true that a great steel plant which is integrated—that is, where they own their transportation facilities, and where they have no loss in reheating metals—can produce steel fabrics cheaper than a smaller mill can. But that is not true of woolen mills or cotton mills. They are built up like a Wernicke bookcase. You have the same loom here you have there, and when you add to your mills you simply add to the number of looms. There is no integration. A little woolen mill or a little cotton mill differs in size only from a large one, as a little Wernicke bookcase differs from a big one, and the economies are on the side of the smaller mill.

Mr. SMOOT. A little mill may have only one set of cards, and of course everything in the mill is based upon the set, whether it is 1 set, or 2, or 10, or 20, or 30. The overhead expenses of a large concern are not as much as those in a smaller mill by any manner of means.

Mr. STANLEY. If you take a mill with 100 looms or 200 looms——

Mr. SMOOT. Say, a 10-set mill.

Mr. STANLEY. After you get a mill with the requisite number of cards, and so on, necessary to carry on the different processes, from the wool through the yarns, the tops, and so forth, you can multiply that by the hundred if you want to, but you will not have materially cheapened the cost of production.

Mr. SMOOT. The same room for a salesroom would be just as much for one as the other.

Mr. STANLEY. That is not a material economy.

Mr. SMOOT. That is overhead expense, and the overhead expenses are extremely heavy. For instance, in one plant of the American Woolen Co. they may have 20 sets of cards, and in another one only 5, but you have to have foremen in each place.

Mr. STANLEY. As I understand, the American Woolen Co. is not one single factory?

Mr. SMOOT. Oh, no.

Mr. STANLEY. They have mills scattered all over the country?

Mr. SMOOT. Certainly.

Mr. STANLEY. One corporation owning 20 mills is not going to operate any one of those 20 mills much more cheaply than a single owner, and the economies secured by joint ownership are more than offset by the lack of attention to particular business. The only economy is in combination.

Mr. WALSH of Massachusetts. The facts I am going to disclose were submitted to the Federal Trade Commission in 1920 for verification and approval, and I do not think they can be seriously disputed. They were prepared with great care and simply for the purpose of getting accurate information. There is no reason why I should try to exaggerate or in any way seek to put the American Woolen Co. in an unfavorable light. I am citing this case to show why our present economic system is being attacked by labor and by the consumer.

At its organization it was capitalized at $70,000,000, of which the thirty millions of common was unquestionably water and the forty millions of 7 per cent preferred was represented by mill properties whose combined market value at the time probably did not exceed four or five millions. The company, while every year paying this nominally 7 per cent, but more probably 50 per cent, on the actual investment, remodeled its old mills and built new mills of much greater capacity entirely from the proceeds of short-time notes which were redeemed out of surplus earnings. A few years later ten millions of the common stock was "retired" at 31; in other words, $3,100,000 of surplus earnings were diverted into the pockets of certain shareholders whose identity was carefully concealed, leaving, however, little doubt that by this one transaction all the money actually ventured by those in control of the combine was replaced in full. This pre-war record of profiteering was in the war period entirely cast in the shade. Its profits, as disclosed by the company's annual report for 1919, rose from $2,788,602 in 1914 to $15,513,414 in 1919, this after all taxes had been paid. Meanwhile the working capital of the company has been raised through its earnings from $21,843,636 in 1914

to $64,086,943 in 1919, and its "surplus reserves" from $8,024,435 to $39,004,426, while $13,193,549 has been written off for depreciation of plant and machinery which cost the company nothing, though its book value was originally $63,642,911.

Mr. POMERENE. Within what period did the increases in earnings and increase in capital stock out of the earnings occur?

Mr. WALSH of Massachusetts. Between 1914 and 1919. The working capital was raised from those earnings from $21,000,000 to $64,000,000.

Mr. POMERENE. Over 300 per cent.

Mr. WALSH of Massachusetts. Yes. Its surplus reserve during that period was raised from $8,000,000 to $39,000,000, nearly 500 per cent.

The actual earnings for the common stock, as computed from the company's report by the Christian Science Monitor, were $41.87 a share in 1917, $93.86 in 1918, and $76.14 in 1919, or a total in three years of $211.87 per share of common stock, every dollar of which is undeniably water. Think of it.

Let me digress a moment to read a newspaper clipping which came to my office a few days ago:

PRIEST CHAMPIONS CAUSE OF LABOR.

LAWRENCE, MASS., July 20.—Foremost among the champions of the striking operatives of the textile mills in this city who are refusing to accept a 20 per cent wage cut ordered by the mill owners is Rev. James T. O'Reilly, pastor of St. Mary's Church and chairman of a citizens' strike committee named to effect some possible settlement of the difficulties. The mill men, however, have flatly refused to arbitrate. They say the wage reduction is forced by economic conditions.

"It is to the discredit of those who are paying 12 per cent dividends to say that they can not afford to pay their workers a living wage," said Father O'Reilly last Sunday, as he announced from the pulpit that a special collection would be taken up for use of the Society of St. Vincent de Paul in its work among the poverty-stricken mill workers. This great Catholic charitable organization has been doing wonderful work throughout the city.

"The strikers will remain out until they get the living wage that they want," said Father O'Reilly. He said that there were many cases of actual want in Lawrence, and that within 400 yards of his church there were families of from 7 to 12 persons who did not know whence their next meal was to come.

"Though there are not yet any cases of actual starvation," said he, "this is due entirely to the efficient work of the relief organization, and conditions are rapidly approaching those of the terrible days of 1912, when the sufferings of the Lawrence mill workers were known throughout America."

Mr. STANLEY. Mr. President, right at that point, if the Senator will pardon another interruption, let me say that I happened to be a member of the congressional committee which investigated the conditions of the Lawrence strike to which the article refers. It appeared in that hearing that the original mill workers, American citizens and citizens of Irish and German descent, went on a strike.

Mr. WALSH of Massachusetts. There are many foreigners there. They speak 20 or 25 different languages. At the time to which he refers, however, I think the Senator is correct.

Mr. STANLEY. That was in 1911. Their places were filled by employees gathered from southern Europe, from the Balkan States. Great posters were placed, according to the testimony of those people, in the little Balkan countries like Czechoslovakia and Bulgaria, and in every pest-haunted hole in the Orient and in southern Europe, containing pictures of long streams of beautifully dressed people passing from magnificent vans to lovely villas, which were described as the residences of the mill workers. They were brought over here without any knowledge of our institutions, without any knowledge of the actual conditions which were to confront them; brought over in the holds of cattle ships, unloaded in violation of our immigration laws into the city of Lawrence, and there they worked for a song. They did not speak our language and were utterly helpless when they got here.

These people afterwards went on a strike. They were I. W. W.'s. They did not speak our language. They were perfectly desperate as to conditions, and in a way they wrecked the mills so far as they could. They picked up wooden billets and smashed the windows. They ran the employers out. The police were called out and the strikers marched in the streets with the women and children in front of them to protect them. There was a horrible state of affairs all around. This undesirable population worked at a starvation wage to take the places of American citizens, all of which was the result of the desperate efforts of the Lawrence Mill Co. to employ laborers who were willing to work in America under conditions similar to those from which they were taken in Europe.

Mr. WALSH of Massachusetts. I thank the Senator for his observations.

But let me proceed. I showed what the earnings were for three years, being $211 on each $100 share of stock. The common stock, according to this report, has now behind each share a value of $320 in quick assets alone, or not less than $520 per share when we estimate the company's plants at a fair replacement value. The financial editor of the Christian Science Monitor is clearly well within the mark in characterizing this 1919 report as "the most brilliant in the series of extraordinary statements issued by the company since 1916."

But the American Woolen Co., if the chief, is not the only clothing profiteer. It would be a long story to discuss the information that is available to anybody who will look into it as to the extent to which profiteering has been indulged in by the very persons who are to be the beneficiaries of the high protective duties proposed in the pending bill. I shall not take the time to go into that at this time.

If there is any question about what I have been saying, let me put this proposition to the Senate. The common stock of the American Woolen Co. was quoted in 1915 at $16. What do Senators suppose it was quoted for in 1920? One hundred and sixty-nine dollars.

Mr. STANLEY. That is only 1,000 per cent increase.

Mr. WALSH of Massachusetts. That is all, and that was during the war, from clothing that our soldiers had to wear—I do not know how many war contracts they had—and that our people had to wear during those years.

But let me turn to the RECORD, because what I have read was from a speech which I prepared on May 18, 1920. I read now from another newspaper clipping from the New York Daily News-Record:

American Woolen Co. reports profits of $9,192,621 net. Shows gain from operations over previous year amounting to $2,337,362.

Even in the year 1921, these were the gains over 1920:

Earned, 8.02 per cent on common—

The common stock, as I stated, was water.

Preferred shares earned slightly over 15 per cent, compared with 11.56 per cent in 1920. Surplus gains, $406,648. Company in splendid position after difficult year, says William M. Wood.

I am not going to read the report in detail, but because it has some relation to the tariff discussion, I am going to call attention to one paragraph in it. Commenting upon export business of the company, this news article states:

Mr. Wood explains that the reason for liquidating the American Woolen Products Co. was because foreign buyers of goods are able to purchase requirements at prices lower in England and on the Continent than the American Woolen Products Co. could offer. This, coupled with the gradual recuperation of the manufacturing centers of Europe and the increasing costs of wool in this country, due to the high tariff existing, made it impossible successfully to export the company's products, Mr. Wood states.

That is Mr. Wood's statement, referring, of course, to the emergency tariff law of 1921.

Mr. President, why have I called attention to this? Because I could not vote against excessively high duties on agricultural products and then when it came to this industry turn about and vote for high protective duties to it. I felt that I owed it to my colleagues to show why great care and caution should be exercised in the levying of protective tariff duties upon these beneficiaries of protection, and to point out to the country that no Senator can justify levying taxation upon their neighbors and their neighbors' neighbors for the benefit of industries unsoundly organized.

It may be said that this is only one of the woolen industries, but it is the controlling industry. I omitted to read from my clipping the reference made to the number of mills the American Woolen Co. brought into the combine during the year 1921 and to give their names for the RECORD, showing that they are still enlarging and combining. That, however, is only typical of the indefensible way in which the American people are being fleeced for the benefit of monopolies. It shows that to levy protective tariff duties for the benefit of any industry without an examination into the financial condition of the industry works an injustice to the American people. It shows that we are levying upon the American people a toll in order to pay dividends, in many instances, upon watered stock.

This might have been done in the past and no special comment have been made about it, but our people are enlightened. There is unrest in the country. The American people are studying our economic system; our working people are asking why, why, why? It is the age of whys. Men are no longer taking anything for granted. It is asked, "Why do you want me to vote the Democratic ticket?" "Why do you want me to belong to your church?" "Why did you levy that duty?" "Why did you impose that tax?" The American people are going to ask, "Why did you make this duty 50 per cent?" "Why did you levy this protective duty?" Of course, there is no answer.

They must be told that it is a guess; a mere guess at what duty could be levied that would not provoke a storm of disapproval. There have been no figures, no calculations, no estimate at all.

I am going to say but little more on this schedule; I am not going to discuss at length the other paragraphs of this schedule, for it would be useless to do so. We must take this case to the country, not for the sake of political success, but to destroy the growing want of confidence in our own institutions. When we proceed to give protection in order to pay the dividends on watered stocks, what can be expected but protest and disrespect for such laws?

Mr. President, on no ground whatever can this high duty be justified. The Senator from Minnesota [Mr. NELSON] is absolutely right. This is one of the most flagrant paragraphs of the whole bill. These duties can not be defended and they are bound to create very serious opposition throughout the country and will bring very serious results to the political party that stands sponsor for them.

Mr. President, I yield the floor.

Mr. POMERENE. Mr. President, I am going to speak for only a very few minutes. I had hoped when the pending tariff measure was first presented that I should be able to vote for substantial changes in the wool schedule as it is now framed in the Underwood law. I had made up my mind to do that, in view of present world-wide conditions. I have been hoping that the more moderate views of the distinguished Senator from Wisconsin [Mr. LENROOT] and those of the venerable Senator from Minnesota [Mr. NELSON] might prevail, but that seems impossible. Now to vote for the duties as they are presented by the Finance Committee would be to do violence to my own judgment and my own conscience. I do not want to vote for or to speak in behalf of any rate of duty here which is going to do any injury to any established industry, but, on the other hand, I can not vote for duties which, in my judgment, are going to impoverish the consumers of the country; and I wish to submit a few figures to indicate how the proposed rates will affect the State of Ohio, which I have the honor in part to represent.

Ohio is one of the States that has a very substantial sheep industry. There are, generally speaking, two classes of sheep raised in Ohio, one the merino, which is raised more particularly for its wool and of which mutton is a by-product. This class of sheep is more largely produced in the southeastern section of the State. There is another class of sheep raised in the western and northern sections which is produced rather for its mutton, as sheep men tell me, with wool as a by-product.

In 1900 the population of Ohio, according to the Federal census, was 4,157,545. At that time there were 2,648,000 sheep of shearing age which were raised on 73,636 farms, the average flock numbering 36 sheep.

In 1910 the population of Ohio was 4,767,121; the sheep of shearing age numbered 2,890,000; the number of farms reporting was 70,458, and the average flock was 41.

In 1920 the population was 5,759,394; the number of sheep of shearing age was 2,152,550; the number of farms reporting sheep 55,246, and the average flock 38.

The average weight of grease wool per fleece in Ohio, according to the report of the United States Tariff Commission known as "The Wool Growing Industry," is about 8.7 pounds, with a shrinkage of 60 per cent. The merino wool shrinks somewhat more than that, and the wool of mutton sheep in Ohio somewhat less, the average being, as I have stated, about 60 per cent. This would give 3½ pounds of clean or scoured wool per fleece.

In 1922 the number of sheep in Ohio was 1,957,000. Multiplying this by 3½ pounds gives a total of 6,849,000 pounds. Supposing the duty of 33 cents per clean pound to be fully effective, the tariff would result in increasing the value of the wool crop of the State over its value under the free wool by $2,260,335. This sum, divided by the 55,246 raisers of sheep, gives an increased value to each flock owner of $40.91 per annum; that is all. If, of course, the duty of 33 cents per pound on the scoured content should only be one-half effective, then it would cut the total gross profit to the farmer down to $20.455 on the average flock in Ohio.

I am advised that the consumption of clean wool in the United States averages around 3 pounds per capita. It must be borne in mind that the rate of per capita consumption in States such as Ohio and other States in the northern section of the country is considerably larger than in the Southern States. Many of the people in the South use little wool, so that the per capita consumption of wool in the North would be considerably more than the average of 3 pounds. Let us estimate this at 5 pounds per capita.

A duty of 33 cents a pound on the clean wool means, with the unavoidable pyramiding, a tax of about 93 cents a pound by the time the wool reaches the consumer in the form of clothing. The cost to the people of Ohio, therefore, assuming that the per capita consumption is 5 pounds, could be figured as 5 pounds multiplied by 93 cents, or $4.65 per capita; and this, multiplied by the total population of the State, of 5,789,394, would mean a total increased cost to the people of Ohio for their woolens of $26,781,182 per annum. Of course, the figures assume that the duty on the fabric complete is wholly effective. If it were only 50 per cent effective, then the increased cost to the people of Ohio would be $13,340,000 plus. Assuming, for the sake of the argument, that the consumption is 4 pounds per capita and that the tariff is pyramided as above stated to 93 cents, it would equal $3.72 in increased cost, or the total would be $21,436,545.66. These figures, again, assume that this duty is wholly effective. If it were only 50 per cent effective, then the increased cost would be $10,718,000 plus.

I understand, of course, that there are many varying circumstances which affect this situation; but it is just as likely that the tariff tax on the raw wool will be wholly effective as it is that the tariff tax on the finished product will be wholly effective. It was demonstrated here yesterday in the course of the debate that the increase in the cost of the fabric under these tariff rates was 100 per cent over and above what it would be if there were no tariff rate either on the raw material or on the finished product; and I want to commend to the attention of the Senate and to the attention of the country the statement made by the venerable Senator from Minnesota [Mr. NELSON] when he said:

> In some way it has been fixed so that on the cloth that we buy, that we can all afford to wear—and when I say "we" I mean the common people of the country—we have to pay a 100 per cent duty, unless the Senator takes the theory that the common people have no business to wear that kind of cloth, and would remit us back to cloth made from carpet wool.

Again, I want to commend his words when he said:

> I want to say in all Christian spirit to the Senator from Utah that I shall be ashamed to go back to the people of Minnesota and tell them that we have enacted a law providing a duty of 100 per cent on the cloth they and I must buy and wear, cloth that we have to wear in the winter. We shall have to pay 100 per cent duty on it under this provision.

Later, again, he said:

> I do not care what the difference is. I do not care about this sublime argument about compensatory duty, nor do I care about some other refinements here. I only know that this paragraph fixes a duty of 100 per cent on woolen goods that we all have got to wear. I say that is an outrageous duty.

Senators, an analysis of these figures shows that in order to get the benefit of a tariff duty of 33 cents per scoured pound, if the duty is wholly effective, in order to give to the flockmasters $2,260,335, we must impose upon the people of the State of Ohio, if the total consumption is figured at 5 pounds per capita, a burden of $26,781,182 per annum. If it is figured at 4 pounds per capita, then the total burden to the people of the State of Ohio would be $21,436,545.66.

Mr. President, I want to do the fair thing, and I know that I am going to be criticized by some of the people of my own State for taking this position, but I can not help it. I can not impose a burden of $26,000,000 and over, as it would appear if the consumption is 5 pounds per capita, or $21,000,000 and over, if the per capita consumption is 4 pounds to the person, in order to give a benefit of $2,260,335 to the woolgrowers of the State, assuming, of course, that they would get the benefit of it.

For these reasons I shall vote for the lower duty.

Mr. McCUMBER. Mr. President, the Senator from Ohio has made a wonderful speech as a free-trade speech—wonderful in its logic, wonderful in its mathematics—and it is absolutely correct.

The Senator says, and we must all admit, that where there is one producer of anything that is used in the United States there are from a thousand to five thousand consumers; and therefore, in order to give a protection to that one producer, we necessarily have to make a charge on from 1,000 to 5,000 consumers. So the Senator argues that out very nicely with reference to the population of the State of Ohio; and in that respect the Democratic side have the easy philosophy and the easy side in the discussion of a protective tariff bill. They can go to Mr. A and say, "They are giving you a duty of 40 per cent ad valorem so as to allow you to earn 40 cents more a day, but when they are doing this they are also giving a duty of 40 per cent ad valorem on a thousand things that you buy. There-

fore, while you make 40 cents saving because of a duty on you, you pay $400 for the things that you buy."

It is a very fine argument, Mr. President. It lacks only one thing, and that is the Senator fails to tell Mr. A what he would have to buy with if he produced nothing and none of the rest of the country produced anything, but the foreign country produced it all. That he has not yet shown us.

The Senator from Minnesota [Mr. NELSON] with all his complaint yesterday voted against a reduction of the rate of 33 cents a pound on wool. I assume, therefore, that he was in favor of a duty of 33 cents a pound on wool. There is not one man in five hundred in my State who has a sheep on his farm, and probably, other things being equal, if he had protection on everything that he produced, he would be better off if there were no protection upon wool; but having given the farmer of the other States, like Arizona and New Mexico and Idaho, an equivalent of 33 cents a pound upon the scoured content of his product, we have to carry that into the yarn and into the cloth. We have had the careful estimate of the Tariff Commission expert and of others to determine just to what extent that increases the cost of a pound of noils, a pound of yarn, and a pound of cloth, and in every instance we have given a less duty than that shown to be absolutely required. We have to give that compensatory duty. Then we took up the matter of protection. We had not any very late statistics on that point that were extremely reliable, I admit, but we had the statistics under normal conditions, say in 1912; and taking all of the importations at that time we arrived at the fact, and it was so reported by the Tariff Commission, that the differential which would require protection to put the two upon an equal footing was from 60 to 70 per cent, and we gave 50 per cent.

In every instance we gave very much lower than that which was shown to be required to actually balance the accounts.

Mr. LENROOT. Mr. President, the pending question is the committee amendment.

The PRESIDING OFFICER. The committee amendment as amended.

Mr. LENROOT. I move to amend, on line 25, page 146, by striking out "40" and inserting "35"; on line 2, page 147, by striking out "50" and inserting "40"; on line 4, by striking out "50" and inserting "40"; on line 5, by striking out "55" and inserting "45," so as to read:

Woven fabrics, weighing more than 4 ounces per square yard, wholly or in chief value of wool, valued at not more than 60 cents per pound, 26 cents per pound and 35 per cent ad valorem; valued at more than 60 cents but not more than 80 cents per pound, 40 cents per pound and 40 per cent ad valorem; valued at more than 80 cents but not more than $1.50 per pound, 49 cents per pound and 40 per cent ad valorem; valued at more than $1.50 per pound, 49 cents per pound and 45 per cent ad valorem.

Mr. WALSH of Massachusetts. That is an amendment which I had intended to offer, and I am very glad the Senator has proposed it. I prefer to have it come from the other side than from this side, and I shall be glad to support the amendment. I think it provides very fair protective rates.

Mr. LENROOT. Mr. President, the hour is late, and I shall occupy the time of the Senate but a few moments.

I offer this amendment because from such study as I have been able to give to this paragraph I find that the present rate of 35 per cent is practically prohibitive; that the imports which do come in are almost exclusively of specialties, which would come in under almost any rate. I find, further, that the average value of the imports which have come in run about $1, or on the average $1.80 a pound, while the average value of our production of like goods in 1919, according to the latest figures we have before us, was only a little over $2 a pound. When we come to the various kinds of goods I find that of fancy woven fabrics the imports for 1921 were valued at $2.96 a pound, upon the average; of the plain woven fabrics, $2.66 of one class, and $3.58 of another, under the emergency tariff act, being the latest importations, $2.27 a pound; under another classification, fancy woven woolens, $1.63 a pound; under the emergency tariff, $1.85 a pound. Plain, $1.82 a pound.

When we come to the figures of our own production of the various classes of goods I find in the Summary of Tariff Information that the very highest rate on any class was $2.50 a pound, and it runs $2, $1.50, $2, $2, and so on, showing conclusively, because the prices of 1919 were certainly higher than the prices of to-day, that there is not and there can not be any such difference as 40 per cent between the prices of the foreign goods and the present prices of our domestic goods.

That being true, how can an increase to 40 and 50 per cent be justified? If it be said that importations are increasing, I refer to the Monthly Summary of Commerce and Finance and I find that of woolen cloths—worsted and woolen—while the importations in May, 1921, were 674,000 pounds, the importations of this last May were only 598,000 pounds. The importations of May of this year were less than the importations of May of last year.

As you go through the statistics it is conclusively shown, it seems to me, that, except for these specialties, the 35 per cent rate applicable prior to the passage of the emergency tariff law—and that had nothing to do with it, because that adds only the compensatory duty—was practically prohibitive. Therefore, Mr. President, in my judgment the committee has not made any defense of this increased rate. They read again from the Reynolds report the duty which would be required under the Reynolds report, and under that report the duties proposed by the committee are too low.

All I have to say with reference to the Reynolds report is what I have heretofore stated. The test is whether imports come in, and if the Reynolds report is correct, why do not imports come in in greater volume? The answer is conclusive—there is something the matter with the Reynolds report. It is not my business to inquire what it is, but it is very evident that it does not give the correct picture of competitive conditions between Europe and the United States to-day in the matter of woven cloths.

I have been very moderate in this amendment I have proposed. The amendment I have proposed upon the lowest class of goods will leave the rate the same as in the Underwood law, which is now prohibitive. Upon the higher-valued goods it is an increase of 5 per cent in one case and 10 per cent in another case over the present Underwood rates.

I know this amendment is going to be defeated. I know it is going to be voted down. I know it does not make any difference what facts are presented with reference to these duties, a majority of the Senate has determined to vote this wool schedule through, and will do so without the slightest change, except in the one particular, where an amendment of mine was accepted this morning, where it was very clear that without that amendment hidden protection would be given to the manufacturer. I know this amendment will be voted down; yet I want to make this record, and I want a yea-and-nay vote upon this proposition, because I want to know, and to let the record show, whether the Senate is standing for prohibitive duties or not.

I want to say, Mr. President, that I shall not carry this effort on through this schedule. I think this is as good a test as we can have, and if the amendment is voted down I think I shall be content to let the other paragraphs take their course. I ask for the yeas and nays upon it.

Mr. WALSH of Massachusetts. Mr. President, before the vote is taken, I ask to have inserted in the RECORD a table showing a comparison of ad valorem equivalents of total duties, based on foreign valuation of various grades of dress goods, cotton-warp dress goods, and heavy cloths.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Statement showing a comparison of ad valorem equivalents of total duties.

DRESS GOODS.

Value (cents).	Payne-Aldrich law.	House bill.	Senate committee.
	Per cent.	*Per cent.*	*Per cent.*
50	138	112	130
80	110	109	100
100	99	96	104
120	92	87	96
150	84	78	81
200	77	70	79

COTTON-WARP DRESS GOODS.

50	106	98	133
80	95	89	104
100	87	80	94
120	82	74	87

HEAVY CLOTHS.

20	215	150	170
40	132	112	105
60	123	85	83
80	110	87	100
100	99	77	99
120	92	70	91
150	84	78	88
200	77	70	79

Mr. McCUMBER. Mr. President, I ask unanimous consent to insert in the RECORD a table prepared by an actuary of the Treasury Department showing the ad valorem rates of duties

under all the paragraphs of the Payne-Aldrich law in 1910 and the duties estimated under the proposed law.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Article.	Payne-Aldrich law, imports 1910.			Estimated imports first 12 months under proposed bill.		
	Value.	Duty.	Equivalent ad valorem.	Value.	Duty.	Equivalent ad valorem.
			Per ct.			*Per ct.*
Raw wool	$47,687,293	$21,128,729	44.31	$19,909,500	$12,172,500	61
Wastes	203,509	79,293	38.96	1,500,250	731,980	49
Wools, etc., advanced, including tops, etc	1,130	1,188	105	171,000	98,550	58
Yarns	326,886	269,296	82.38	295,000	226,000	77
Woven fabrics	15,445,409	15,546,605	100.66	5,955,600	4,509,370	76
Pile fabrics	16,726	17,118	102.34	150,000	114,000	76
Blankets	45,995	33,768	73.42	59,400	38,578	65
Felts, not woven	107,018	103,821	97.01	112,000	66,000	52
Fabrics with fast edges, etc	77,158	67,173	87.06	17,400	13,820	71
Knit fabrics	37,000	35,431	95.76	7,000	4,480	64
Knit articles	389,308	372,329	95.63	1,635,500	985,132	60
Wearing apparel (not knit)	1,388,928	1,071,977	77.29	3,000,000	1,766,000	59
Carpets and rugs	4,619,170	2,802,212	60.66	4,550,000	2,410,000	53
Manufactures, n. s. p. f	393,407	371,763	94.5	800,000	440,000	55
Total, wools and manufactures	70,736,937	41,900,694	59.23	38,162,650	23,576,410	62

Mr. LENROOT. I ask that the three amendments to the amendment of the committee may be considered together.

The PRESIDING OFFICER. They will be so voted upon as one amendment, and upon agreeing to the amendment to the amendment the Senator from Wisconsin demands the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. DIAL (when his name was called). I have a pair with the Senator from Michigan [Mr. TOWNSEND], which I transfer to the Senator from Arizona [Mr. ASHURST], and vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. HARRIS (when his name was called). Making the same announcement as on the previous vote, I vote "yea."

Mr. JONES of New Mexico (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "yea."

Mr. LODGE (when his name was called). I transfer my pair with the Senator from Alabama [Mr. UNDERWOOD] to the Senator from Maryland [Mr. WELLER] and vote "nay."

Mr. McCUMBER. Transferring my general pair as on the previous vote, I vote "nay."

Mr. McLEAN (when his name was called). Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

Mr. McNARY (when his name was called). Upon this amendment to the committee amendment I am paired with the junior Senator from Minnesota [Mr. KELLOGG]. If he were present, he would vote "yea," and if I were permitted to vote I would vote "nay."

Mr. NEW (when his name was called). Making the same announcement with reference to the transfer of my pair as upon the previous ballot, I vote "nay."

Mr. ROBINSON (when his name was called). I transfer my pair with the Senator from West Virginia [Mr. SUTHERLAND] to the Senator from Missouri [Mr. REED] and vote "yea."

Mr. DIAL (when Mr. SMITH's name was called). My colleague [Mr. SMITH] is detained on official business. He is paired with the Senator from South Dakota [Mr. STERLING]. I ask that this announcement may continue for the balance of the day.

Mr. STERLING (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. I understand that that Senator, if present, would vote as I intend to vote. I therefore am at liberty to vote. I vote "yea."

Mr. WALSH of Montana (when his name was called). Transferring my pair as announced on the previous vote, I vote "yea."

The roll call was concluded.

Mr. McNARY. I transfer my pair with the junior Senator from Minnesota [Mr. KELLOGG] to the junior Senator from Vermont [Mr. PAGE] and vote "nay."

Mr. CARAWAY (after having voted in the affirmative). I have a pair with the junior Senator from Illinois [Mr. McKINLEY]. I transfer that pair to the senior Senator from South Carolina [Mr. SMITH] and allow my vote to stand.

Mr. GLASS. Making the same announcement as to my pair and transfer as on the preceding vote, I vote "yea."

Mr. CURTIS. I wish to announce the following general pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON];

The Senator from California [Mr. JOHNSON] with the Senator from Georgia [Mr. WATSON]; and

The Senator from Indiana [Mr. WATSON] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 24, nays 27, as follows:

YEAS—24.

Borah	Heflin	Overman	Sterling
Capper	Jones, N. Mex.	Pomerene	Swanson
Caraway	Jones, Wash.	Robinson	Trammell
Dial	Lenroot	Sheppard	Wadsworth
Glass	Nelson	Simmons	Walsh, Mass.
Harris	Norbeck	Stanley	Walsh, Mont.

NAYS—27.

Brandegee	Gooding	Moses	Ransdell
Broussard	Hale	New	Smoot
Bursum	Kendrick	Newberry	Spencer
Cameron	Lodge	Nicholson	Stanfield
Colt	McCumber	Oddie	Warren
Curtis	McLean	Pepper	Willis
Ernst	McNary	Phipps	

NOT VOTING—45.

Ashurst	France	McCormick	Shortridge
Ball	Frelinghuysen	McKellar	Smith
Calder	Gerry	McKinley	Sutherland
Crow	Harreld	Myers	Townsend
Culberson	Harrison	Norris	Underwood
Cummins	Hitchcock	Owen	Watson, Ga.
Dillingham	Johnson	Page	Watson, Ind.
du Pont	Kellogg	Pittman	Weller
Edge	Keyes	Poindexter	Williams
Elkins	King	Rawson	
Fernald	Ladd	Reed	
Fletcher	La Follette	Shields	

So Mr. LENROOT's amendment to the amendment of the committee was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee as amended.

Mr. WALSH of Massachusetts. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. CARAWAY (when his name was called). I have a pair with the junior Senator from Illinois [Mr. McKINLEY]. I can obtain no transfer of that pair, and therefore withhold my vote.

Mr. DIAL (when his name was called). Making the same announcement as to my pair and transfer as on the previous ballot, I vote "nay."

Mr. GLASS (when his name was called). Making the same announcement as to my pair and transfer as on the previous vote, I vote "nay."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "yea."

Mr. HARRIS (when his name was called). Making the same announcement as before, I vote "yea."

Mr. JONES of New Mexico (when his name was called). Making the same announcement regarding my pair and transfer as on the previous vote, I vote "nay."

Mr. LODGE (when his name was called). Making the same announcement as before as to the transfer of my pair, I vote "yea."

Mr. McCUMBER (when his name was called). Transferring my pair as on the previous vote, I vote "yea."

Mr. McNARY (when his name was called). Making the same announcement as to my pair and transfer, I vote "yea."

Mr. NEW (when his name was called). Transferring my pair as on the previous vote, I vote "yea."

Mr. ROBINSON (when his name was called). Announcing the same pair and transfer as on the last vote, I vote "nay."

Mr. STERLING (when his name was called). On this vote I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from New Hampshire [Mr. KEYES] and vote "yea."

Mr. WALSH of Montana (when his name was called). Transferring my pair as heretofore, I vote "nay."

The roll call was concluded.

Mr. JONES of Washington (after having voted in the negative). I understand the Senator from Virginia [Mr. SWANSON] did not vote. I promised to pair with him for the afternoon, but I understand on this amendment he would vote as I have voted. Therefore I allow my vote to stand.

Mr. CARAWAY. I transfer my pair with the junior Senator from Illinois [Mr. MCKINLEY] to the senior Senator from Virginia [Mr. SWANSON] and vote "nay."

The roll call resulted—yeas 27, nays 21, as follows:

YEAS—27.

Broussard	Hale	Newberry	Smoot
Bursum	Kendrick	Nicholson	Spencer
Cameron	Lodge	Norbeck	Stanfield
Colt	McCumber	Oddie	Sterling
Curtis	McNary	Pepper	Warren
Ernst	Moses	Phipps	Willis
Gooding	New	Ransdell	

NAYS—21.

Borah	Heflin	Pomerene	Wadsworth
Capper	Jones, N. Mex.	Robinson	Walsh, Mass.
Caraway	Jones, Wash.	Sheppard	Walsh, Mont.
Dial	Lenroot	Simmons	
Glass	Nelson	Stanley	
Harris	Overman	Trammell	

NOT VOTING—48.

Ashurst	Fletcher	La Follette	Reed
Ball	France	McCormick	Shields
Brandegee	Frelinghuysen	McKellar	Shortridge
Calder	Gerry	McKinley	Smith
Crow	Harreld	McLean	Sutherland
Culberson	Harrison	Myers	Swanson
Cummins	Hitchcock	Norris	Townsend
Dillingham	Johnson	Owen	Underwood
du Pont	Kellogg	Page	Watson, Ga.
Edge	Keyes	Pittman	Watson, Ind.
Elkins	King	Poindexter	Weller
Fernald	Ladd	Rawson	Williams

The PRESIDING OFFICER. On the amendment of the committee as amended, the yeas are 27 and the nays are 21, no quorum having voted.

RECESS.

Mr. MCCUMBER. In accordance with the unanimous-consent agreement heretofore entered into, I move that the Senate now take a recess, the recess being until to-morrow morning at 11 o'clock.

Mr. WALSH of Massachusetts. I suggest that the Senator from North Dakota give notice that we shall have a vote the very first thing after convening.

Mr. MCCUMBER. We shall have to vote immediately on convening.

Mr. LODGE. We could not do anything else.

The PRESIDING OFFICER. The question is on the motion of the Senator from North Dakota [Mr. MCCUMBER].

The motion was agreed to; and (at 6 o'clock and 20 minutes p. m.) the Senate, under the order previously made, took a recess until to-morrow, Saturday, July 29, 1922, at 11 o'clock a. m.

SENATE.

SATURDAY, *July 29, 1922.*

(Legislative day of Thursday, April 20, 1922.)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

THE TARIFF.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7456) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

The VICE PRESIDENT. The Secretary will call the roll, to ascertain the presence of a quorum.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Jones, N. Mex.	New	Stanfield
Borah	Jones, Wash.	Newberry	Stanley
Brandegee	Kellogg	Nicholson	Sterling
Bursum	Kendrick	Norbeck	Swanson
Capper	Keyes	Oddie	Trammell
Caraway	Lenroot	Overman	Underwood
Cummins	Lodge	Phipps	Wadsworth
Curtis	McCumber	Ransdell	Walsh, Mass.
Dial	McKinley	Robinson	Walsh, Mont.
Ernst	McLean	Sheppard	Warren
Gooding	McNary	Simmons	Willis
Harris	Moses	Smoot	
Heflin	Nelson	Spencer	

Mr. HARRIS. My colleague [Mr. WATSON of Georgia] is absent on account of illness. I ask that this announcement may stand for the day.

Mr. DIAL. I desire to announce that my colleague [Mr. SMITH] is detained on official business. I ask that this notice may continue through the day.

The VICE PRESIDENT. Fifty Senators have answered to their names. A quorum is present. The question is on the committee amendment inserting paragraph 1109 as amended, on which the yeas and nays have been ordered. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. HARRIS (when his name was called). I transfer my pair with the junior Senator from New York [Mr. CALDER] to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "nay."

Mr. JONES of New Mexico (when his name was called). I transfer my general pair with the senior Senator from Maine [Mr. FERNALD] to the senior Senator from Nevada [Mr. PITTMAN]. I ask that this announcement may stand for the day. I vote "nay."

Mr. JONES of Washington (when his name was called). On this vote I am paired with the junior Senator from Arizona [Mr. CAMERON]. If he were present, he would vote "yea." If at liberty to vote, I would vote "nay."

Mr. MCCUMBER (when his name was called). Transferring my pair with the junior Senator from Utah [Mr. KING] to the junior Senator from North Dakota [Mr. LADD], I vote "yea."

Mr. NEW (when his name was called). Transferring my pair with the junior Senator from Tennessee [Mr. MCKELLAR] to the junior Senator from Vermont [Mr. PAIGE], I vote "yea." I will let this announcement of my pair and transfer stand for the day.

Mr. ROBINSON (when his name was called). Transferring my pair with the Senator from West Virginia [Mr. SUTHERLAND] to the senior Senator from Missouri [Mr. REED], I vote "nay."

Mr. STERLING (when his name was called). Transferring my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Pennsylvania [Mr. PEPPER], I vote "yea."

Mr. WALSH of Montana (when his name was called). I transfer my pair with the Senator from New Jersey [Mr. FRELINGHUYSEN] to the Senator from Rhode Island [Mr. GERRY] and vote "nay."

The roll call was concluded.

Mr. DIAL. I am paired with the Senator from Michigan [Mr. TOWNSEND]. I transfer that pair to the Senator from Texas [Mr. CULBERSON] and vote "nay." If my colleague [Mr. SMITH] were present and not paired, he would vote "nay" on this question.

Mr. WILLIS. I am paired with my colleague [Mr POMERENE] and therefore withhold my vote. If at liberty to vote, I would vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Maryland [Mr. WELLER] with the Senator from Illinois [Mr. MCCORMICK];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON];

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from California [Mr. JOHNSON] with the Senator from Georgia [Mr. WATSON];

The Senator from Indiana [Mr. WATSON] with the Senator from Mississippi [Mr. WILLIAMS];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS]; and

The Senator from Maine [Mr. HALE] with the Senator from Tennessee [Mr. SHIELDS].

The result was announced—yeas 26, nays 24, as follows:

YEAS—26.

Brandegee	Keyes	New	Smoot
Broussard	Lodge	Newberry	Spencer
Bursum	McCumber	Nicholson	Stanfield
Curtis	McKinley	Norbeck	Sterling
Ernst	McLean	Oddie	Warren
Gooding	McNary	Phipps	
Kendrick	Moses	Ransdell	

NAYS—24.

Ashurst	Harris	Nelson	Swanson
Borah	Heflin	Overman	Trammell
Capper	Jones, N. Mex.	Robinson	Underwood
Caraway	Kellogg	Sheppard	Wadsworth
Cummins	Lenroot	Simmons	Walsh, Mass.
Dial	Myers	Stanley	Walsh, Mont.

NOT VOTING—46.

Ball	Edge	Hale	La Follette
Calder	Elkins	Harreld	McCormick
Cameron	Fernald	Harrison	McKellar
Colt	Fletcher	Hitchcock	Norris
Crow	France	Johnson	Owen
Culberson	Frelinghuysen	Jones, Wash.	Page
Dillingham	Gerry	King	Pepper
du Pont	Glass	Ladd	Pittman